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Activision Publishing, Inc.
8

9 UNITED STATES DISTRICT COURT
10 CENTRAL DISTRICT OF CALIFORNIA
11

12 ACTIVISION PUBLISHING, INC., a
13 Delaware Corporation,

14 Plaintiff,

15 v.

16 ACTIVISION TV, INC., a Delaware
Corporation; AD MEDIA DISPLAYS,
17 INC., a Wyoming Corporation; DAVID
GOTHARD, an individual,

18 Defendants.
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CASE NO. CV12-8964-GHW (JEMx)

Honorable George H. Wu

**DECLARATION OF JAMES
BERKLEY IN SUPPORT OF
MOTION FOR PARTIAL
SUMMARY JUDGMENT OF
PLAINTIFF ACTIVISION
PUBLISHING, INC.**

Date: July 1, 2013
Time: 8:30 a.m.
Ctrm.: 10

1 I, James D. Berkley, the undersigned, hereby declare as follows.

2 1. I am employed as a Senior Research Analyst at Mitchell Silberberg &
3 Knupp LLP, counsel for Plaintiff in this action. I have personal knowledge of all
4 of the following facts and, if called as a witness, could and would testify
5 competently thereto.

6 2. Attached hereto as **Exhibit 1** is a true and correct copy of a web page
7 accessed and printed by me on or about May 30, 2013, reflecting the first page of
8 search results generated by entering the query “ACTIVISION” on the Google
9 search engine, available at the Uniform Resource Locator (“URL”)
10 www.google.com.

11 3. Attached hereto as **Exhibit 2** is a true and correct copy of a document
12 that I accessed and caused to be printed on or about May 31, 2013 from the
13 Trademark Status and Document Retrieval system (“TSDR”) maintained by the
14 United States Patent and Trademark Office (“USPTO”), available at the URL
15 [http://tsdr.uspto.gov/documentviewer?caseId=sn75866677&docId=IPC200402231](http://tsdr.uspto.gov/documentviewer?caseId=sn75866677&docId=IPC20040223102340)
16 [02340](http://tsdr.uspto.gov/documentviewer?caseId=sn75866677&docId=IPC20040223102340), reflecting a “Statement of Use” and purported “specimens” filed by or on
17 behalf of the Defendants in this action with the USPTO on or about February 20,
18 2004.

19 4. Attached hereto as **Exhibit 3** are true and correct copies of pages that
20 I accessed and caused to be printed on or about May 31, 2013 from the TSDR
21 system maintained by the USPTO, available at the URL
22 [http://tsdr.uspto.gov/documentviewer?caseId=sn75866677&docId=SPE201007211](http://tsdr.uspto.gov/documentviewer?caseId=sn75866677&docId=SPE20100721131715)
23 [31715](http://tsdr.uspto.gov/documentviewer?caseId=sn75866677&docId=SPE20100721131715), reflecting purported “specimens” filed by or on behalf of the Defendants in
24 this action with the USPTO on or about July 20, 2010.

25 5. Attached hereto as **Exhibit 4** are true and correct copies of relevant
26 pages of the 2011 “HITEC Conference and Program Guide,” identified as
27 produced by the Hospitality Financial and Technology Professionals organization

28

1 (“HFTP”), which I accessed and downloaded on or about June 1, 2013 via the
2 URL <http://www.hftp.org/Content/Forms/HITEC/2011/H11Programw.pdf>.

3 6. Attached hereto as **Exhibit 5** are true and correct copies of various
4 pages found on Defendants’ web site located at www.activision.tv, which I
5 accessed and caused to be printed via the URLs indicated therein on or about July
6 5, 2012.

7 7. Attached hereto as **Exhibit 6** are true and correct copies of the
8 “home” pages of Defendants’ web site as accessed via the URLs
9 <http://www.activision.tv> and <http://www.activisiontv.com>, which I accessed and
10 caused to be printed on or about June 2, 2013.

11 8. Attached hereto as **Exhibit 7** are true and correct screenshots of
12 postings dated February 15, 2011 on an Internet bulletin board maintained by the
13 “Motley Fool” website, described as the “Official Website of the Long-Term
14 Investor” and “The World’s Greatest Investing Community,” which I accessed and
15 caused to be captured on or about June 1, 2013, available at the URLs
16 <http://boards.fool.com/activisiontv-29105658.aspx?sort=threaded> and
17 <http://boards.fool.com/activisontv-29105666.aspx?sort=threaded>.

18 9. Attached hereto as **Exhibit 8** is a true and correct copy of an article
19 dated February 15, 2011 titled “TIE Technologies’ Whirlwind Media Signs
20 Agreement With Activision.TV, Inc.,” which I accessed and caused to be printed
21 after clicking the link offered in the postings referenced in Exhibit 6, available at
22 the URL <http://www.thestreet.com/print/story/11008701.html>.

23 10. Attached hereto as **Exhibit 9** is a true and correct copy of a *New York*
24 *Times* article dated May 26, 2013, titled “Consoles Moving Into Next Generation,”
25 which I caused to be printed on or about May 31, 2013 from the URL
26 [http://www.nytimes.com/2013/05/27/arts/video-games/xbox-nintendo-and-](http://www.nytimes.com/2013/05/27/arts/video-games/xbox-nintendo-and-playstation-look-to-next-generation-of-consoles.html?pagewanted=all)
27 [playstation-look-to-next-generation-of-consoles.html?pagewanted=all](http://www.nytimes.com/2013/05/27/arts/video-games/xbox-nintendo-and-playstation-look-to-next-generation-of-consoles.html?pagewanted=all).

1 11. Attached hereto as **Exhibit 10** is a true and correct copy of an article
2 dated May 21, 2013, titled “Microsoft Xbox One Launch: True Convergence of
3 Video Games, TV, Media, Web, Communications,” which was accessed and
4 printed under my direction on or about May 28, 2013 from the URL
5 [http://www.marketwatch.com/Story/story/print?guid=7649e63a-d2a6-439a-8371-](http://www.marketwatch.com/Story/story/print?guid=7649e63a-d2a6-439a-8371-c42f4f6f277f)
6 [c42f4f6f277f](http://www.marketwatch.com/Story/story/print?guid=7649e63a-d2a6-439a-8371-c42f4f6f277f).

7 12. Attached hereto as **Exhibit 11** is a true and correct copy of an “Xbox
8 One” advertisement available on the website www.xbox.com, which I accessed
9 and caused to be printed on or about May 31, 2013 from the URL
10 [http://view.engage.xbox.com/?j=ff2d12737c64&m=fe5f15707362017c7c10&ls=fe](http://view.engage.xbox.com/?j=ff2d12737c64&m=fe5f15707362017c7c10&ls=fe961d757765077e77&l=ff971577)
11 [961d757765077e77&l=ff971577](http://view.engage.xbox.com/?j=ff2d12737c64&m=fe5f15707362017c7c10&ls=fe961d757765077e77&l=ff971577).

12 13. Attached hereto as **Exhibit 12** are true and correct copies of
13 screenshots captured by me on or about May 31, 2013 and June 2, 2013 from the
14 official Nintendo web site at www.nintendo.com, reflecting various pages accessed
15 by me on those dates at the URLs indicated therein.

16 14. Attached hereto as **Exhibit 13** is a true and correct copy of a web page
17 titled “What is Wii?,” which I accessed and caused to be printed on or about May
18 31, 2013 from the URL <http://www.nintendo.com/wii/what-is-wii/>.

19 15. Attached hereto as **Exhibit 14** are true and correct copies of
20 screenshots captured by me on or about May 31, 2013 from the official Sony
21 PlayStation web site at us.playstation.com, reflecting various pages accessed by me
22 on that date at the URLs indicated therein.

23 16. Attached hereto as **Exhibit 15** is a true and correct copy of a
24 Washington Post article dated December 19, 2012, titled “Nintendo TV service
25 coming Dec. 20,” which I accessed and caused to be printed on or about June 1,
26 2013 from the URL [http://articles.washingtonpost.com/2012-12-](http://articles.washingtonpost.com/2012-12-19/business/35929197_1_nintendo-tvii-gamepad-xbox-live-service)
27 [19/business/35929197_1_nintendo-tvii-gamepad-xbox-live-service](http://articles.washingtonpost.com/2012-12-19/business/35929197_1_nintendo-tvii-gamepad-xbox-live-service).

1 17. Attached hereto as **Exhibit 16** is a true and correct copy of a *Los*
2 *Angeles Times* article, dated May 17, 2013, titled (in part) “Is your TV a smart
3 TV?,” which I accessed and caused to be printed on or about May 31, 2013 from
4 the URL [http://www.latimes.com/entertainment/envelope/cotown/la-et-st-smart-tv-](http://www.latimes.com/entertainment/envelope/cotown/la-et-st-smart-tv-technology-20130519,0,2375243.story)
5 [technology-20130519,0,2375243.story](http://www.latimes.com/entertainment/envelope/cotown/la-et-st-smart-tv-technology-20130519,0,2375243.story).

6 18. Attached hereto as **Exhibit 17** are true and correct copies of web
7 pages accessed and printed by me on or about June 1, 2013 from the searchable
8 database maintained by the USPTO, available via <http://tmsearch.uspto.gov/>,
9 reflecting registrations of the word mark “APPLE TV” and of a “GOOGLE TV”
10 word-plus-design mark.

11 19. Attached hereto as **Exhibit 18** are true and correct copies of
12 screenshots of the web page located at the URL <http://www.google.com/tv/>, which
13 I accessed and caused to be captured on or about May 31, 2013.

14 20. Attached hereto as **Exhibit 19** is a true and correct copy of the web
15 page located at the URL <http://www.apple.com/appletv/what-is/>, which I accessed
16 and caused to be printed on or about June 1, 2013.

17 21. Attached hereto as **Exhibit 20** is a true and correct copy of an article
18 entitled “New Hotel Near Apple’s HQ Sports Apple TVs in Rooms,” which I
19 accessed and caused to be printed on or about May 31, 2013 from the URL
20 [http://news.cnet.com/8301-13579_3-57574898-37/new-hotel-near-apples-hq-](http://news.cnet.com/8301-13579_3-57574898-37/new-hotel-near-apples-hq-sports-apple-tvs-in-rooms/)
21 [sports-apple-tvs-in-rooms/](http://news.cnet.com/8301-13579_3-57574898-37/new-hotel-near-apples-hq-sports-apple-tvs-in-rooms/).

22 22. Attached hereto as **Exhibit 21** is a true and correct copy of a web page
23 entitled “Microsoft TV IPTV Edition Brochure,” which I accessed and caused to
24 be printed on or about June 1, 2013 from the URL [http://www.microsoft.com/en-](http://www.microsoft.com/en-us/download/details.aspx?id=33553)
25 [us/download/details.aspx?id=33553](http://www.microsoft.com/en-us/download/details.aspx?id=33553), followed by a true and correct copy of the
26 document concerning “Microsoft TV” that I downloaded via that web page on the
27 same date.

1 23. Attached hereto as **Exhibit 22** are true and correct copies of
2 documents accessed and printed by me on or about June 1, 2013 from the
3 searchable database maintained by the USPTO, available via
4 <http://tmsearch.uspto.gov/>, reflecting trademark applications for the word marks
5 “ROCKSTAR TV” and “GTA TV”.

6 24. Attached hereto as **Exhibit 23** are true and correct copies of publicly
7 available records reflecting registration data for the Internet domain names
8 “apple.tv”, “google.tv”, “nintendo.tv”, and “microsoft.tv”, which I accessed and
9 caused to be printed using the searchable database available at the URL
10 <http://whois.domaintools.com/>.

11 25. Attached hereto as **Exhibit 24** is a true and correct copy of an article
12 dated January 8, 2013 and titled (in part) “Valve’s Gabe Newell on Steam Box,
13 biometrics, and the future of gaming,” which I accessed and caused to be printed
14 on or about May 31, 2013 from the URL
15 [http://www.theverge.com/2013/1/8/3852144/gabe-newell-interview-steam-box-](http://www.theverge.com/2013/1/8/3852144/gabe-newell-interview-steam-box-future-of-gaming)
16 [future-of-gaming](http://www.theverge.com/2013/1/8/3852144/gabe-newell-interview-steam-box-future-of-gaming).

17 26. Attached hereto as **Exhibit 25** is a true and correct copy of a press
18 release dated June 20, 2006, entitled “Lodgenet Connecting Guests with New In-
19 Room Solutions for Entertainment, Information and Productivity” and located at
20 the URL <http://www.prweb.com/pdfdownload/401251.pdf>, which I accessed and
21 caused to be downloaded on or about May 30, 2013 via the URL
22 <http://www.prweb.com/releases/lodgenet/hdtv/prweb401251.htm>.

23 27. Attached hereto as **Exhibit 26** are true and correct copies of pages
24 available on the web site www.lodgenet.com (the “LodgeNet Web Site”), which I
25 accessed and caused to be captured on or about May 31, 2013 from the URLs
26 indicated therein.

27 28. Attached hereto as **Exhibit 27** is a true and correct copy of a
28 document available on the LodgeNet Web Site, titled “5 Things You Need to

1 Know about Guest Room Interactive Television (iTV),” which I accessed and
2 caused to be downloaded on or about May 31, 2013 from the URL
3 http://www.lodgenet.com/SiteCollectionDocuments/S1547VOD_ValueSheetUpdateFIN100510.pdf.

5 29. Attached hereto as **Exhibit 28** is a true and correct copy of a press
6 release dated June 10, 1999, titled (in part) “LodgeNet Begins Installing Hotels
7 With Nintendo 64 Game Systems,” which was accessed and printed under my
8 direction on or about May 28, 2013 from the URL
9 http://www.thefreelibrary.com/_/print/PrintArticle.aspx?id=54853975.

10 30. On or about May 25, 2013 through May 27, 2013, I stayed as a guest
11 at the Bay Landing Hotel, located at 1550 Bayshore Highway in Burlingame,
12 California. The room in which I stayed offered a television-based entertainment
13 system that I recall was described as offered by LodgeNet. Attached hereto as
14 **Exhibit 29** is a true and correct copy of a page printed by me from the website of
15 this hotel on or about June 1, 2013, from the URL
16 <http://www.baylandinghotel.com/accomodations.html>. Among other things, this
17 page states that the hotel’s accommodations offer “[c]able television, pay-per-view
18 movies and games.”

19 31. Using my room’s provided remote control at the Bay Landing Hotel, I
20 was able to navigate to a section of the room’s television system that purported to
21 offer a selection of Nintendo 64 video games. Attached hereto as **Exhibit 30** is a
22 true and correct copy of a photograph taken by me on or about May 26, 2013,
23 showing the television screen in my guest room when I selected to view this
24 option. As can be seen, the screen states in part: “Play Nintendo 64 games in your
25 room using the game controller on your TV... Press MENU at any time to change
26 games, purchase play time, or access other services.”

27 32. Attached hereto as **Exhibit 31** is a true and correct copy of a web page
28 available on the LodgeNet Web Site, titled “Wii™ For Hotels,” which I accessed

1 and caused to be printed on or about May 31, 2013 from the URL
2 <http://www.lodgenet.com/OurSolutions/Pages/WiiForHotels.aspx>.

3 33. Attached hereto as **Exhibit 32** is a true and correct copy of a
4 document available on the LodgeNet Web Site, titled “LodgeNet | Wii™ for Public
5 Spaces,” which I accessed and caused to be downloaded on or about May 31, 2013
6 from the URL
7 [http://www.lodgenet.com/SiteCollectionDocuments/Our%20Solutions%20Docum](http://www.lodgenet.com/SiteCollectionDocuments/Our%20Solutions%20Documents/2011%20Public/S1716Wii_SalesSheet_Jun2011.pdf)
8 [ents/2011%20Public/S1716Wii_SalesSheet_Jun2011.pdf](http://www.lodgenet.com/SiteCollectionDocuments/Our%20Solutions%20Documents/2011%20Public/S1716Wii_SalesSheet_Jun2011.pdf).

9 34. Attached hereto as **Exhibit 33** is a true and correct copy of a
10 document available on the LodgeNet Web Site, titled “guestLINK PowerWave by
11 LodgeNet,” which I accessed and caused to be downloaded on or about May 31,
12 2013 from the URL
13 [http://www.lodgenet.com/SiteCollectionDocuments/Our%20Solutions%20Docum](http://www.lodgenet.com/SiteCollectionDocuments/Our%20Solutions%20Documents/Dec%202010%20Connectivity/GuestLinkSalesSht_Dec2010.pdf)
14 [ents/Dec%202010%20Connectivity/GuestLinkSalesSht_Dec2010.pdf](http://www.lodgenet.com/SiteCollectionDocuments/Our%20Solutions%20Documents/Dec%202010%20Connectivity/GuestLinkSalesSht_Dec2010.pdf).

15 35. Attached hereto as **Exhibit 34** are true and correct copies of
16 screenshots pertaining to various video game amenities purported to be offered by
17 a number of hotels, which I accessed and captured on or about May 30, 2013 from
18 the hotels’ web sites and related pages via the URLs indicated therein.

19 36. Attached hereto as **Exhibit 35** is a true and correct copy of a *USA*
20 *Today* article dated March 31, 2008 titled “Hotels crown guitar heroes with Wii,
21 Xbox action,” which I accessed and caused to be printed on or about May 30, 2013
22 from the URL [http://usatoday30.usatoday.com/tech/gaming/2008-03-27-hotel-](http://usatoday30.usatoday.com/tech/gaming/2008-03-27-hotel-video-games_N.htm)
23 [video-games_N.htm](http://usatoday30.usatoday.com/tech/gaming/2008-03-27-hotel-video-games_N.htm).

24 37. Attached hereto as **Exhibit 36** is a true and correct copy of a *New*
25 *York Times* article dated April 30, 2013, which I accessed and caused to be printed
26 on or about May 31, 2013 from the URL
27 [http://www.nytimes.com/2013/05/01/business/hotel-guests-turn-away-from-tv-](http://www.nytimes.com/2013/05/01/business/hotel-guests-turn-away-from-tv-and-toward-streaming-media.html?pagewanted=all)
28 [and-toward-streaming-media.html?pagewanted=all](http://www.nytimes.com/2013/05/01/business/hotel-guests-turn-away-from-tv-and-toward-streaming-media.html?pagewanted=all).

1 38. Attached hereto as **Exhibit 37** is a true and correct copy of a Wall
2 Street Journal article titled “The Toughest Guest: a Teen,” dated July 29, 2010,
3 which I accessed and caused to be printed on or about May 31, 2013 from the URL
4 <http://online.wsj.com/article/SB10001424052748703940904575395011201052130>
5 .html.

6 39. Attached hereto as **Exhibit 38** is a true and correct copy of a
7 *Hospitality Technology* article dated February 11, 2010, titled “5 Guest Room Tech
8 Trends,” which was accessed and printed under my direction on or about May 28,
9 2013 from the URL [http://hospitalitytechnology.edgl.com/top-stories/5-Guest-](http://hospitalitytechnology.edgl.com/top-stories/5-Guest-Room-Tech-Trends55167)
10 [Room-Tech-Trends55167](http://hospitalitytechnology.edgl.com/top-stories/5-Guest-Room-Tech-Trends55167).

11 40. Attached hereto as **Exhibit 39** is a true and correct copy of a
12 Wired.com article dated December 31, 2009, titled “Open Letter to the Hotel
13 Industry: Time to Get Your Game On,” which was accessed and printed under my
14 direction on or about May 28, 2013 from the URL
15 [http://www.wired.com/geekdad/2009/12/open-letter-to-the-hotel-industry-time-to-](http://www.wired.com/geekdad/2009/12/open-letter-to-the-hotel-industry-time-to-get-your-game-on/)
16 [get-your-game-on/](http://www.wired.com/geekdad/2009/12/open-letter-to-the-hotel-industry-time-to-get-your-game-on/).

17 41. Attached hereto as **Exhibit 40** is a true and correct copy of an article
18 dated March 4, 2008, titled “Best Geek Hotels in the World 2.0,” which was
19 accessed and printed under my direction on or about May 28, 2013 from the URL
20 [http://www.hotelchatter.com/story/2008/2/24/144612/104/hotels/Best_Geek_Hotel](http://www.hotelchatter.com/story/2008/2/24/144612/104/hotels/Best_Geek_Hotels_in_the_World_2.0)
21 [s_in_the_World_2.0](http://www.hotelchatter.com/story/2008/2/24/144612/104/hotels/Best_Geek_Hotels_in_the_World_2.0).

22 42. Attached hereto as **Exhibit 41** is a true and correct copy of an article
23 titled “Nintendo strikes Wii hotel deal,” dated September 30, 2008, which was
24 accessed and printed under my direction on or about May 28, 2013 from the URL
25 http://news.cnet.com/8301-13772_3-10054531-52.html.

26 43. Attached hereto as **Exhibit 42** is a true and correct copy of an article
27 titled “Wii and Wii Fit to Be Featured at Select Westin Hotels,” dated May 4,
28

1 2008, which was accessed and printed under my direction on or about May 28,
2 2013 from the URL <http://www.nintendoworldreport.com/news/15903>.

3 44. Attached hereto as **Exhibit 43** is a true and correct copy of an article
4 titled "Get a Room with Mario: Nintendo's latest adventure is now the star
5 attraction at hotels across the land," dated February 6, 2001, which was accessed
6 and printed under my direction on or about May 28, 2013 from the URL
7 <http://www.ign.com/articles/2001/02/06/get-a-room-with-mario>.

8 45. Attached hereto as **Exhibit 44** is a true and correct copy of a web page
9 concerning the "Nintendo Gateway system," which I accessed and caused to be
10 printed on or about June 1, 2013 from the URL
11 http://www.gamehiker.com/wiki/index.php?title=Nintendo_Gateway_System.

12 46. Attached hereto as **Exhibit 45** is a true and correct copy of an article
13 on the website CathayPacific.com, titled "Cathay Pacific offers onboard Nintendo
14 games," which was accessed and printed under my direction on or about May 28,
15 2013 from the URL
16 [http://www.cathaypacific.com/cpa/en_IN/aboutus/pressroomdetails?refID=991bb9](http://www.cathaypacific.com/cpa/en_IN/aboutus/pressroomdetails?refID=991bb921cefaa010VgnVCM22000022d21c39____)
17 [21cefaa010VgnVCM22000022d21c39____](http://www.cathaypacific.com/cpa/en_IN/aboutus/pressroomdetails?refID=991bb921cefaa010VgnVCM22000022d21c39____) (underscore included in URL).

18 47. Attached hereto as **Exhibit 46** are true and correct copies of
19 screenshots obtained from pages on the web sites www.wordwidestudios.net,
20 www.nintendo.com, and www.microsoft.com, which I accessed and captured on or
21 about June 2, 2013 at the URLs indicated therein, pertaining respectively to video
22 games published by Sony, Nintendo, and Microsoft.

23 48. Attached hereto as **Exhibit 47** is a true and correct copy of a web page
24 titled "Xbox One | What It Does" available on the web site www.xbox.com, which
25 I accessed and caused to be printed on or about June 2, 2013 from the URL
26 <http://www.xbox.com/en-US/xboxone/what-it-does>.

27 49. Attached hereto as **Exhibit 48** is a true and correct copy of pertinent
28 pages of a document that I accessed and caused to be printed on or about June 2,

2013 from the TSDR system maintained by the USPTO, available at the URL <http://tsdr.uspto.gov/documentviewer?caseId=sn77912745&docId=OOA20100216151006>, reflecting an Office action of the USPTO dated February 16, 2010 with respect to Defendants' trademark application bearing Serial No. 77/912,745.

50. Attached hereto as **Exhibit 49** is a true and correct copy of pertinent pages of a document that I accessed and caused to be printed on or about June 2, 2013 from the TSDR system maintained by the USPTO, available at the URL <http://tsdr.uspto.gov/documentviewer?caseId=sn77978580&docId=OOA20100216151154>, reflecting an Office action of the USPTO dated February 16, 2010 with respect to Defendants' trademark application bearing Serial No. 77/978,580.

51. Attached hereto as **Exhibit 50** is a true and correct copy of pertinent pages of a document that I accessed and caused to be printed on or about June 2, 2013 from the TSDR system maintained by the USPTO, available at the URL <http://tsdr.uspto.gov/documentviewer?caseId=sn85143756&docId=OOA20110119064915>, reflecting an Office action of the USPTO dated January 9, 2011 with respect to Defendants' trademark application bearing Serial No. 85/143,756.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed at Los Angeles, California this 3 day of June, 2013.


James D. Berkley

EXHIBIT 1

Get detailed financial information on **Activision** Blizzard, Inc. (NASDAQ:ATVI) including real-time stock quotes, historical charts & financial news, all for free!

Activision (Company) - Giant Bomb

www.giantbomb.com/activision/3010-78/ ▼

Activision is the largest third-party publisher in the world. It became the first third-party developer for video game consoles, and is responsible for popular ...

Searches related to **ACTIVISION**

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EXHIBIT 2

STATEMENT OF USE UNDER 37 CFR 2.88, WITH DECLARATION

Mark: ACTIVISION
Serial No.: 75866677

TO THE ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS:

Applicant Name: AD MEDIA DISPLAYS, INC.
Notice of Allowance Issue Date: May 1, 2001

Applicant requests registration of the above-identified servicemark in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. 1051 et. seq., as amended). Three (3) specimens showing the mark as used in commerce are submitted with this statement.

Applicant is using the mark in commerce on or in connection with the following good/services:

Electric and electronic illuminated advertising and display signs, signboards, billboards and panels; electronically activated, illuminated advertising and display signs and signboards that display locally or remotely variable and changeable text, graphics and/or animation, sound and motion in International Class 009.

The dates of use are as follows:

Date of first use of mark anywhere: January 00, 2002

Date of first use of mark in commerce
which the U.S. Congress may regulate: January 00, 2002

Type of Commerce: Interstate

Manner or mode of use of mark on or in connection with the
goods/services: By placing it on the product, labels of packaging, brochures, letterhead
and in other ways customary to the trade.



02-20-2004

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By: 
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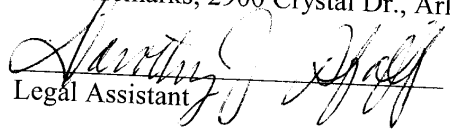
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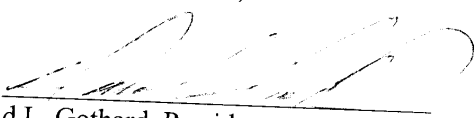
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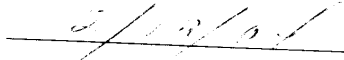
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Applicant hereby appoints Edward M. Livingston, Esq., 963 Trail Terrace Drive, Naples, FL 34103, (239) 262-8502, a member of the Bar of the State of Florida and Registered Patent Attorney No. 28,523, to prosecute this Application to register, transact all business in the Patent and Trademark Office in connection therewith, including any appeal with the Trademark Trial and Appeals Board, and to receive the Certificate of Registration on my behalf.

Respectfully submitted,

AD MEDIA DISPLAYS, INC.

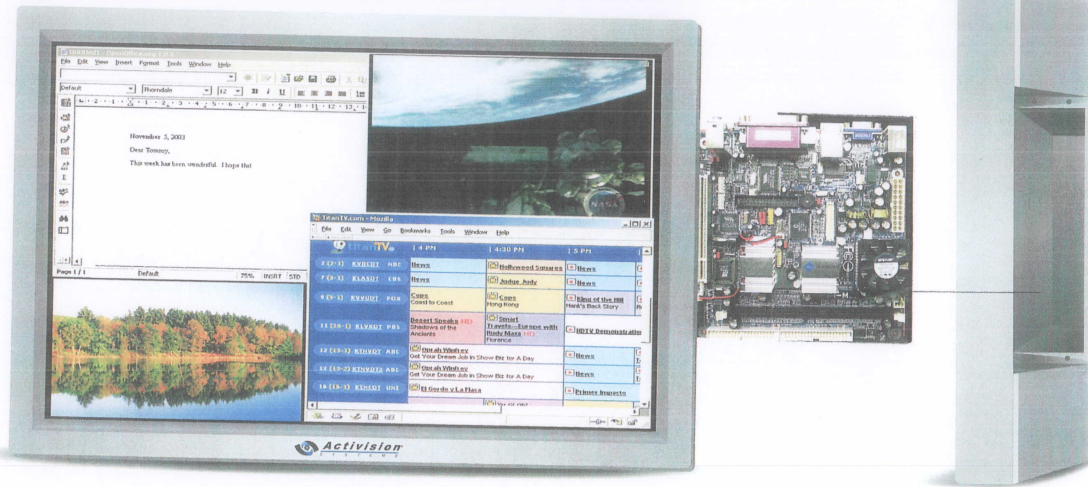
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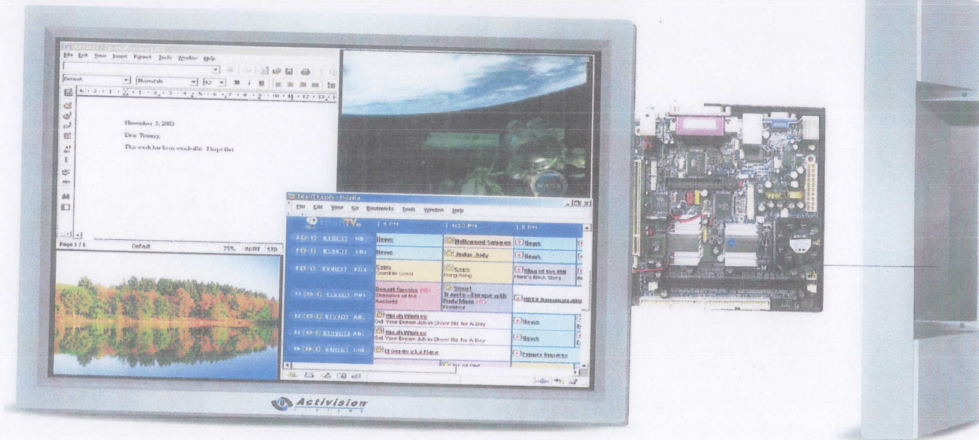


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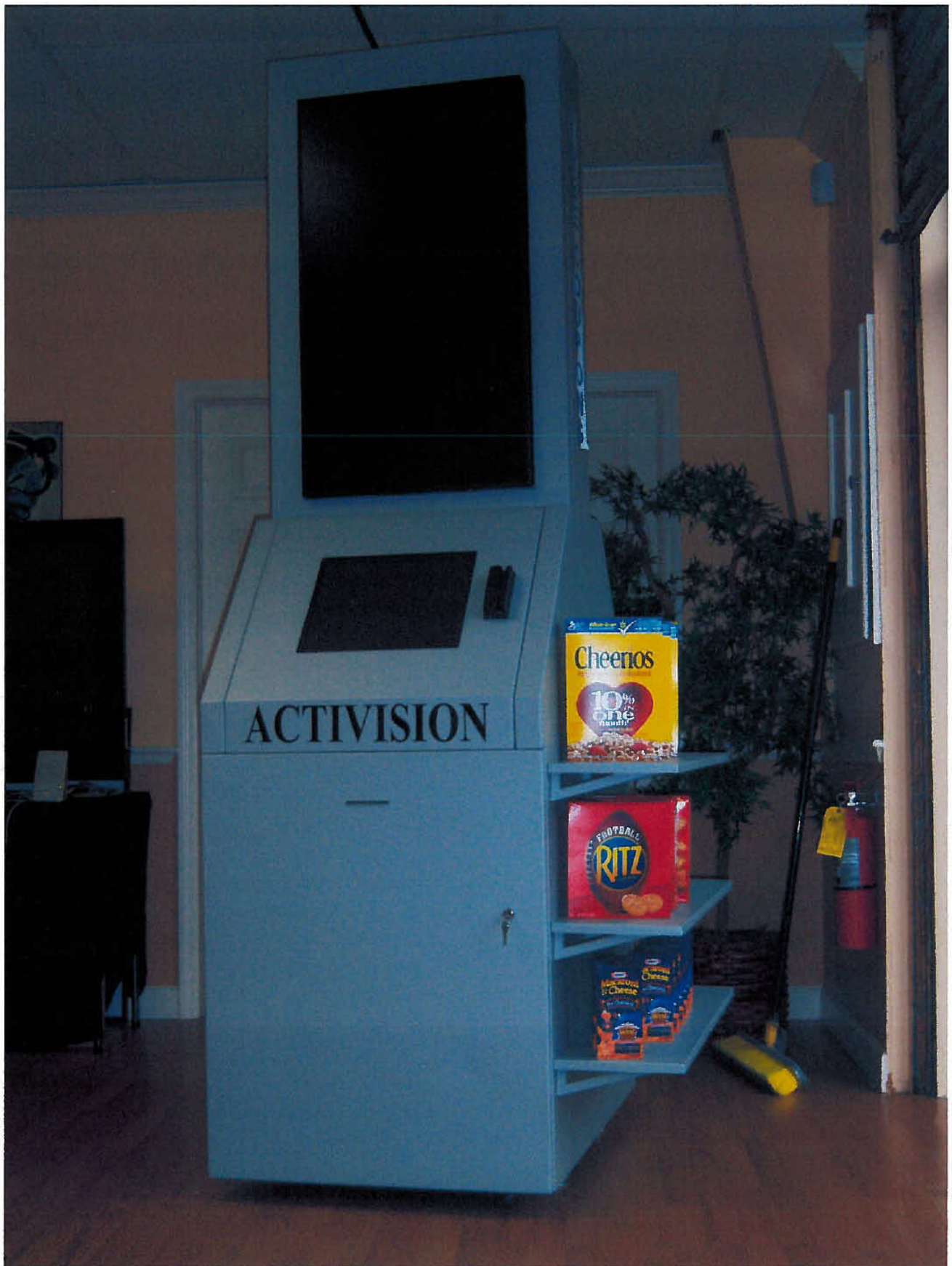


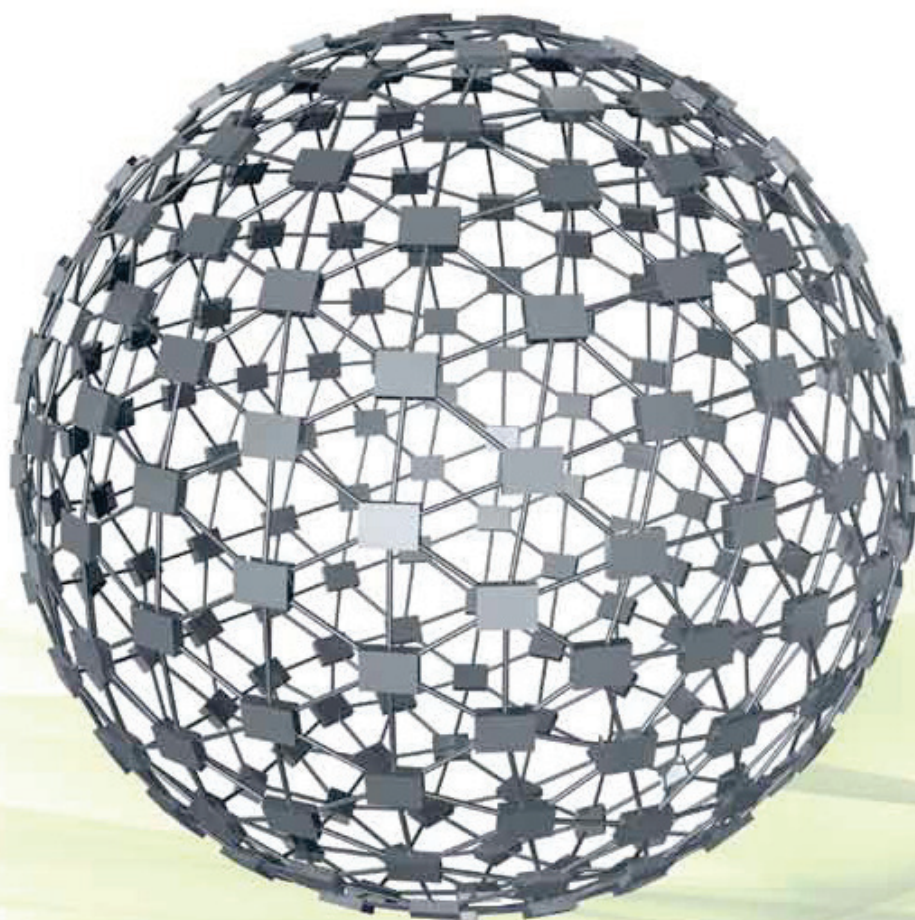
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Table of Contents

2011 Special Features	2
Passport to Technology.....	3
HITEC Advisory Council	4
HITEC Executive Advisory Council	5
HITEC 2011 Sponsors	6, 8
General Information.....	10
HFTP International	
Hospitality Technology Hall of Fame.....	14
Certified Hospitality	
Technology Professionals (CHTP)	16
Schedule-at-a-Glance.....	18
Rights Statement	19
Meeting Rooms Map.....	20
Monday Schedule.....	22
Tuesday Schedule	28
Wednesday Schedule	30
Thursday Schedule	36
Speakers.....	38
Antitrust Statement.....	43
Exhibitor Tutorials	44
Exhibit Hall Floorplan.....	46
Exhibitors-at-a-Glance	48
Hospitality Technology Strategic	
Initiatives Council	50
New Technology Guide.....	51
Aisle-by-Aisle Guide.....	56
2011 Exhibitors — By Company	64
2011 Exhibitors — By Product.....	87
HFTP Board of Directors	103

Advertiser Index

Alert Logic.....	63
Alloso Technologies.....	51
AHTEC 2.0.....	65
Amadeus IT Group S.A.	51
Aptech Computer Systems, Inc.....	13
Cetis, Inc.....	7
ChefTec/Culinary Software Services.....	52, 60
CHTP — Certified Hospitality Technology Professional	33
Connection-Call Center, The	60
Datatrend Technologies Inc.	59
EasyRMS	9, 52, 56
Elavon	60
Elfiq Networks	56
EZYield	11
GuestWare	58
HFTP Connect.....	5
HFTP Greater Austin Chapter Event	20
HFTP University	57
HITEC 2012	104
HITEC Social Media Scavenger Hunt	5
Hospitality Finance and Technology eMarketplace	35
Hospitality Financial and Technology Professionals.....	25, 61
Hospitality Technology Magazine.....	29
Hospitality Upgrade Magazine	47
HOTELS Magazine	31
HUGHES	61
IDeaS — A SAS Company	23
Infor Softbrands	21, 56
InfoValue Computing, Inc.....	3
LeisureLink, Inc.....	53
Motorola	62
MSI/REMco	58
Nevotek	59
Onity	53
Ovation Networks, Inc.....	53
PAR Springer-Miller Systems, Inc.....	17, 54
PrinterOn Corporation.....	59
RateTiger-eRevMax	54
Shift4 Corporation.....	Back Cover, 62
Sonu Satellite	62
Thing5.....	63
TravelShark (formerly Swiftrank)	Inside Back Cover
TTI Technologies.....	58
VeriFone, Inc.....	55
Verve Living Systems.....	Inside Front Cover
WebRezPro Property Management System	55
Workforce-Velocity	61

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By Product**EXHIBITORS**

Libra OnDemand.....	925
MeetingMatrix International, Inc.....	1025
Megasys Hospitality Systems.....	806
MSI/REMco.....	231
Newmarket International, Inc.....	307
NORTHWIND - Maestro Property Mgmt. Solutions.....	323
Passkey.....	131
ResortSuite.....	1441

Central Reservations

Active Network, Resorts.....	116
Amadeus IT Group S.A.....	819
B4Checkin Ltd.....	1226
Choice Hospitality Solutions.....	1725
Cultuzz.....	940
Cybage Software Private Limited.....	344
Hotel Concepts-Brilliant.....	723
Infor SoftBrands.....	201
InnLink Central Reservation Services ..	1209
Megasys Hospitality Systems.....	806
MICROS Systems, Inc.....	113
NAVIS.....	1015
PAR Springer-Miller Systems, Inc.....	315
Passkey.....	131
Pegasus Solutions, Inc.....	1113
Resort Data Processing.....	552
Singapore Hospitality Technology Consortium.....	1532
Travel Tripper.....	1415
Zephyr Guest Contact Solutions.....	546

Channel Management

Amadeus IT Group S.A.....	819
EZYield.....	1031
FRANCE 24.....	132
Hotel Concepts-Brilliant.....	723
Infor SoftBrands.....	201
Lanyon, Inc.....	1832
Newmarket International, Inc.....	307
RateGain.....	142
RateTiger-eRevMax.....	215
Vertical Booking.....	137

Charging Stations

Brandstand Products.....	747
guestLINK.....	625
LogicLink, Inc.....	1142
Sawyers Company.....	139
TeleAdapt Inc.....	521

Check Processing Services

Bank of America Merchant Services....	1423
Magtek, Inc.....	211
Shift4 Corporation.....	1437

Check-in/Check-out

3M Security Systems.....	1346
AddressDoctor.....	1625
Agilysys.....	607
AutoClerk Inc.....	1707
Computime.....	1431

DuVoice Corporation.....	449
Galaxy Hotel Systems.....	301
MConcierge Systems.....	848
Megasys Hospitality Systems.....	806
MICROS Systems, Inc.....	113
MSI/REMco.....	231
OpenWays.....	1834
PAR Springer-Miller Systems, Inc.....	315
Planet Payment.....	114
RSI-RoomKey PMS.....	933
Singapore Hospitality Technology Consortium.....	1532
VingCard Elsafe.....	907

Clocks, Cyclers, or Programmable Controls

Brandstand Products.....	747
Evolve Guest Controls.....	1345
Stevens Digital Group.....	1808

Closed Circuit TV

ATX Networks.....	1614
CLC Networks.....	753

Cloud Computing

Activision TV Inc.....	1030
Alert Logic.....	1813
Amadeus IT Group S.A.....	819
Attendance on Demand, Inc.....	247
Beverage Metrics, Inc.....	1306
BirchStreet Systems.....	1315
Business Only Broadband LLC.....	141
Cendyn.....	639
Choice Hospitality Solutions.....	1725
Club Software, Inc.....	1321
Datavision Technologies, Inc.....	237
Dell/TACS.....	1517
EZYield.....	1031
Givex.....	810
HexiSTOR Data Protection Services.....	108
Homisco, Inc.....	213
Hotel Concepts-Brilliant.....	723
Infor SoftBrands.....	201
innAcloud Technologies.....	550
InnLink Central Reservation Services ..	1209
Libra OnDemand.....	925
MConcierge Systems.....	848
Meraki, Inc.....	1826
MTech.....	825
Ness Technologies.....	444
NIIT Technologies, Inc.....	1435
nSTREAMS Technologies, Inc.....	1051
PAR Springer-Miller Systems, Inc.....	315
PAS.....	503
RSI-RoomKey PMS.....	933
SAS Institute Inc.....	124
Spa, Fitness & Activity Software by GramercyOne.....	745
WebRezPro Property Management System.....	1119

Club Management

Abacus 21.....	1321
BirchStreet Systems.....	1315
ChefTec/Culinary Software Services.....	440
clubsystems group (CSG).....	1321
Crowley Programming, Inc.....	1321
CSI Software.....	1321
CSI Virtual MasterCard.....	1539
IBS-Club Management Software.....	1321
Jonas Software.....	501; 1321
Northstar Club Management Software.....	1321
ResortSuite.....	1441
Spa, Fitness & Activity Software by GramercyOne.....	745
TAC - Reservation Assistant.....	339

Comment Card Database

B4Checkin Ltd.....	1226
--------------------	------

Communications

Airband Communications.....	1828
Ascom (US) Inc.....	527
AT&T Wi-Fi Services.....	1531
Axxess Industries Inc.....	831
Bartech Systems International.....	446
Business Only Broadband LLC.....	141
Cotell International Limited.....	453
DuVoice Corporation.....	449
Elfiq Networks.....	106
Four Winds Interactive.....	431
GuestWifi, A Division of Spot On Networks.....	1809
National Purchasing Partners.....	1312
NEC Corporation of America.....	1307
Pinnacle Communications.....	447
SkyWire Media Inc.....	343
Symon.....	1607
The Hotel Communication Network, Inc.....	1447
VCORE powered by DCI.....	1552
Vocera Communications, Inc.....	1121
Zephyr Guest Contact Solutions.....	546
Zhu Hai Huawang Communication Equipment Co., Ltd.....	1451

Computer Accessories

Archelon Enclosures.....	1735
Brandstand Products.....	747
Cables To Go.....	136
guestLINK.....	625
HotelComputers.com.....	122
TeleAdapt Inc.....	521

Computer Security

Alert Logic.....	1813
Archelon Enclosures.....	1735
HexiSTOR Data Protection Services.....	108
HotelComputers.com.....	122
Tidel Engineering.....	1514
Trustwave.....	442
Uniguest.....	910
ValuePoint Networks.....	807

EXHIBITORS | *By Product*

Computer Telephony Integration (CTI)

Alcatel-Lucent.....	715
Attendance on Demand, Inc.....	247
Datanamics Non Stop Networks.....	707
innAcloud Technologies.....	550
Mitel Corporation.....	531
NEC Corporation of America.....	1307
New Voice North America.....	152
NIIT Technologies, Inc.....	1435
PhoneSuite.....	1722
Systems Design & Development, Inc. (SDD).....	415

Computerized Energy Management

Bartech Systems International.....	446
Evolve Guest Controls.....	1345
INNCOM International, Inc.....	101
Magnum Energy Solutions.....	1047
Muzak LLC.....	451
Ovation Networks, Inc.....	1713
Panoptic Technology Inc.....	1549
Verve Living Systems.....	1525
VingCard Elsafe.....	907

Concierge/Guest Services

Activision TV Inc.....	1030
Archelon Enclosures.....	1735
Cendyn.....	639
Eleven.....	645
FCS Computer Systems.....	839
Flyte Systems.....	1230
Four Winds Interactive.....	431
GuestWare.....	220
Inteli.....	615
Interalia.....	1453
JANUS Displays.....	331
Libra OnDemand.....	925
Lifelware.....	551
MConcierge Systems.....	848
Nevotek.....	720
nSTREAMS Technologies, Inc.....	1051
Peacey Systems Inc.....	1120
Resort Data Processing.....	552
RSI-RoomKey PMS.....	933
runtriz.....	1835
SkyWire Media Inc.....	343
Sprint.....	351
Square [i] International.....	1507
The Hotel Communication Network, Inc.....	1447
TTI Technologies.....	134
Vertical Systems, Inc.....	1037
VingCard Elsafe.....	907
Zephyr Guest Contact Solutions.....	546

Condo/Timeshare

Archelon Enclosures.....	1735
AutoClerk Inc.....	1707
Choice Hospitality Solutions.....	1725
Hotel Concepts-Brilliant.....	723

IQWARE INC.....	943
NORTHWIND - Maestro Property Mgmt. Solutions.....	323
PAR Springer-Miller Systems, Inc.....	315
Resort Data Processing.....	552
RSI-RoomKey PMS.....	933

Connectivity Solutions

AFL.....	1620
Ascom (US) Inc.....	527
Bittel Americas.....	441
Broadband Enterprise.....	1709
Business Only Broadband LLC.....	141
Cables To Go.....	136
Cendyn.....	639
Cybage Software Private Limited.....	344
Deep Blue Communications.....	1829
DuVoice Corporation.....	449
Eleven.....	645
Elfiq Networks.....	106
Enseo, Inc.....	1018
EZYield.....	1031
guestLINK.....	625
Guest-tek.....	548
iBAHN.....	221
InnLink Central Reservation Services.....	1209
Intello Technologies Inc.....	1125
Lanyon, Inc.....	1832
NIIT Technologies, Inc.....	1435
RateTiger-eRevMax.....	215
Ruckus Wireless.....	1019
Sabre Hospitality Solutions.....	913
TeleAdapt Inc.....	521

Credit Card Processing

Bank of America Merchant Services.....	1423
CSI Virtual MasterCard.....	1539
Elavon.....	425
Magtek, Inc.....	211
Merchant Link.....	121
Planet Payment.....	114
Shift4 Corporation.....	1437
SIX Card Solutions.....	1733
Spa, Fitness & Activity Software by GramercyOne.....	745

Credit Card Readers

Archelon Enclosures.....	1735
Bank of America Merchant Services.....	1423
Galaxy Hotel Systems.....	301
Magtek, Inc.....	211
SIX Card Solutions.....	1733
VeriFone, Inc.....	934

Customer Relationship Management

Active Network, Resorts.....	116
AddressDoctor.....	1625
Cendyn.....	639
Datavision Technologies, Inc.....	237
Edgewater Technology Inc.....	1118
Givex.....	810
Guest Direct.....	148

GuestWare.....	220
Hotel Industry.....	1724
HotelEXPERT.....	209
hyphen Information Systems Management.....	518
Libra OnDemand.....	925
MConcierge Systems.....	848
Metasphere Technologies.....	1530
MSI/REMco.....	231
MTech.....	825
NAVIS.....	1015
Northstar Club Management Software.....	1321
NORTHWIND - Maestro Property Mgmt. Solutions.....	323
Passkey.....	131
Resort Data Processing.....	552
ResortSuite.....	1441
SAS Institute Inc.....	124
SkyWire Media Inc.....	343
Spa, Fitness & Activity Software by GramercyOne.....	745
Teradata Corporation.....	419
ZDirect, Inc.....	145
Zephyr Guest Contact Solutions.....	546

Data Analysis

AddressDoctor.....	1625
Alloso Technologies.....	1337
Beverage Metrics, Inc.....	1306
Crowley Programming, Inc.....	1321
Datavision Technologies, Inc.....	237
Givex.....	810
Infor SoftBrands.....	201
Libra OnDemand.....	925
Lixto Inc.....	146
Metasphere Technologies.....	1530
MicroStrategy, Inc.....	1143
NIIT Technologies, Inc.....	1435
Planet Payment.....	114
ProfitSword.....	709
SAS Institute Inc.....	124
Teradata Corporation.....	419
Workforce-Velocity.....	653
ZDirect, Inc.....	145

Data Infrastructure Design/Installation

AFL.....	1620
Alcatel-Lucent.....	715
Aptech Computer Systems, Inc.....	401
AVAYA.....	937
Broadband Enterprise.....	1709
Datatrend Technologies Inc.....	600
Edgewater Technology Inc.....	1118
VCORE powered by DCI.....	1552
Vecima Networks.....	1729

Data Transmission

AddressDoctor.....	1625
Alcatel-Lucent.....	715
Broadband Enterprise.....	1709
Elfiq Networks.....	106
Time Warner Cable Business Class.....	1543

*By Product***EXHIBITORS**

Vecima Networks.....	1729	TAC - Reservation Assistant	339	Electronic Distribution	
VeriFone, Inc.....	934	The Hotel Communication Network, Inc.	1447	Amadeus IT Group S.A.	819
Data Warehousing		Tribune Media Services	1815	EZYield.....	1031
Cendyn.....	639	Uniguest	910	Lanyon, Inc.....	1832
Datavision Technologies, Inc.	237	Z-Band (Video), Inc.	843	OpenTravel	
Givex.....	810	Digital Storage		Pegasus Solutions, Inc.	1113
Metasphere Technologies.....	1530	HexiSTOR Data Protection Services.....	108	RateGain.....	142
NAVIS.....	1015	LG Electronics USA, Inc.	631	RateTiger-eRevMax.....	215
NIIT Technologies, Inc.....	1435	Digital Thermostats		Sabre Hospitality Solutions	913
One Safe Place Media Corp.....	626	EnOcean Alliance Inc.....	1821	TravelShark (formerly Swiftrank).....	217
ProfitSword.....	709	Evolve Guest Controls.....	1345	Travelsurf (Pvt) Ltd.....	651
Rubicon, A Travelclick Company.....	919	INNCOM International, Inc.....	101	Electronic Funds Transfer	
SAS Institute Inc.....	124	Magnum Energy Solutions	1047	CSI Virtual MasterCard.....	1539
Teradata Corporation	419	Ovation Networks, Inc.....	1713	Givex.....	810
ZDirect, Inc.....	145	Disaster Recovery		SIX Card Solutions	1733
Digital Dashboards		Elfiq Networks	106	Electronic Locking Systems	
Evolve Guest Controls.....	1345	HD Communications Corp.....	130	Onity.....	1043
Four Winds Interactive	431	HexiSTOR Data Protection Services.....	108	OpenWays.....	1834
MicroStrategy, Inc.	1143	Document Imaging		VingCard Elsafe	907
Symon.....	1607	3M Security Systems.....	1346	Electronic Meetings	
Digital Fax		Agilysys.....	607	Electro-Media Design, Ltd.	1419
DuVoice Corporation.....	449	Alloso Technologies.....	1337	The Hotel Communication Network, Inc.	1447
Digital Signage		Fujitsu Computer Products of America, Inc.	846	Electronic Signature Capture	
Activision TV Inc.....	1030	E-Business		Agilysys.....	607
Alcatel-Lucent.....	715	B4Checkin Ltd.....	1226	Computime	1431
ARINC.....	1550	Cultuzz.....	940	VeriFone, Inc.....	934
AT&T Wi-Fi Services	1531	LogicLink, Inc.	1142	Email	
at-visions	1137	Moreton Bay Technology Pty. Ltd.	602	Cendyn.....	639
AVT Integrated Solutions	1147	TravelShark (formerly Swiftrank).....	217	clubsystems group (CSG)	1321
Cables To Go.....	136	TTI Technologies.....	134	Hospitality Upgrade & Hotel Online.....	722
CLC Networks	753	Yellow Dog Software.....	1321	Jonas Software.....	501; 1321
Datatrend Technologies Inc.....	600	ZDirect, Inc.....	145	Libra OnDemand.....	925
DirectStreams	739	Electrical Power Distribution Systems		Lodging Hospitality	1220
DISH Network	951	Verve Living Systems.....	1525	Milestone Internet Marketing, Inc.....	312
Display Systems International, Inc.....	104	Electronic Data Interchange		ZDirect, Inc.....	145
DSS Installations.....	852	CSI Virtual MasterCard.....	1539	Emergency Systems	
Electro-Media Design, Ltd.	1419	Merchant Link.....	121	DSS Installations	852
Enseo, Inc.....	1018	Electronic Display/Message Boards		Ford Audio-Video Systems, Inc.	942
Flyte Systems	1230	Axess Industries Inc.....	831	Four Winds Interactive	431
Ford Audio-Video Systems, Inc.	942	Datatrend Technologies Inc.....	600	HexiSTOR Data Protection Services	108
Four Winds Interactive	431	Display Systems International, Inc.....	104	Homisco, Inc.....	213
HUGHES.....	938	Electro-Media Design, Ltd.	1419	Interalia	1453
Immersion Technology	1515	Flyte Systems	1230	JANUS Displays.....	331
InfoValue Computing, Inc.....	1131	Four Winds Interactive	431	Tidel Engineering	1514
Intello Technologies Inc.....	1125	JANUS Displays.....	331	Z-Band (Video), Inc.	843
JANUS Displays.....	331	Muzak LLC	451	Encryption Management	
Just In Time Communications.....	1253	Panasonic Solutions Company	1407	ATX Networks	1614
LG Electronics USA, Inc.	631	The Hotel Communication Network, Inc.	1447	Magtek, Inc.....	211
LodgeNet Interactive Corporation.....	407	Toner Cable Equipment Inc.	1618	Merchant Link.....	121
Lucasey Manufacturing Corp.....	833	Tribune Media Services	1815	Pico Digital	1548
Multicom, Inc.	837	Electronic Distribution		Trustwave	442
Muzak LLC	451	Amadeus IT Group S.A.	819	Vecima Networks.....	1729
Nevotek	720	EZYield.....	1031	VeriFone, Inc.....	934
nSTREAMS Technologies, Inc.....	1051	Lanyon, Inc.....	1832	OpenTravel	
Panasonic Solutions Company	1407	Pegasus Solutions, Inc.	1113	Pegabus Solutions, Inc.	1113
Pinnacle Communications.....	447	RateGain.....	142	RateTiger-eRevMax.....	215
Sonu Satellite.....	1612	Sabre Hospitality Solutions	913	Sabre Hospitality Solutions	913
Sprint.....	351	TravelShark (formerly Swiftrank).....	217	TravelShark (formerly Swiftrank).....	217
Symon.....	1607	Travelsurf (Pvt) Ltd.....	651	Travelsurf (Pvt) Ltd.....	651

EXHIBITORS | By Product

HSIA continued from page 93.

Smart Hospitality	746
Sunray	1213
Swisscom Hospitality Services.....	151
Systems Design & Development, Inc. (SDD)	415
TeleAdapt Inc.	521
Telkonet/EthoStream.....	1807
The Eric Ryan Corporation	1440
TigerTMS plc	110
Time Warner Cable Business Class	1543
Toner Cable Equipment Inc.	1618
ValuePoint Networks	807
VCORE powered by DCI	1552
VDA USA	357
Vertical Systems, Inc.....	1037
Wifi-soft Solutions	1811
XETA Technologies	308
Zhone Technologies.....	520

Hot Water Heating Systems

ClearWater Tech, LLC.....	1519
---------------------------	------

Housekeeping

Axxess Industries Inc.....	831
ClearWater Tech, LLC.....	1519
Metasphere Technologies.....	1530
MTech	825
Workforce-Velocity.....	653

Human Resources

Data Plus Hospitality Solutions	314
TMx Labor Solutions by TimeManagement.....	516

HVAC

EnOcean Alliance Inc.....	1821
Evolve Guest Controls.....	1345
Ovation Networks, Inc.....	1713
Verve Living Systems.....	1525

I.D. Systems/Badges

3M Security Systems.....	1346
Cawley Digital ID	623
Immersion Technology	1515
TTI Technologies.....	134

Implementation & Training

BirchStreet Systems	1315
Galaxy Hotel Systems	301
hyphen Information Systems Management	518
PAS	503
Venza Group, Inc.....	726

Industry Publication

Hospitality Financial and Technology Professionals.....	165
Hospitality Upgrade & Hotel Online.....	722
Hotel Interactive Network.....	1830
HOTELS Magazine.....	1711
Lodging Hospitality	1220

Information Services

AAHOA Lodging Business Magazine...	1551
Alloso Technologies.....	1337
Archelon Enclosures.....	1735
Broadband Enterprise	1709
Dell/TACS	1517
Flyte Systems	1230
Hospitality Upgrade & Hotel Online.....	722
Interalia	1453

In-room Detectors/Infrared

Sensors

EnOcean Alliance Inc.....	1821
Evolve Guest Controls.....	1345
INNCOM International, Inc.....	101
Verve Living Systems.....	1525

In-room Movies

DIRECTV.....	157
Flagstaff Corp	1806
Hotel Internet Services	1222
iBAHN	221
InfoValue Computing, Inc.....	1131
Nevotek	720
nSTREAMS Technologies, Inc.....	1051
Panoptic Technology Inc.....	1549
RoomLinx.....	1351
Smart Hospitality	746
Stevens Digital Group	1808
SuiteLinq Inc.	1151
Swisscom Hospitality Services.....	151
TeleAdapt Inc.	521
Tribune Media Services	1815
VDA USA	357
VideoPropulsion.....	815

Interactive Display Systems

Activision TV Inc.....	1030
Cotell International Limited	453
Enseo, Inc.....	1018
Evolve Guest Controls.....	1345
Flyte Systems	1230
Ford Audio-Video Systems, Inc.	942
Four Winds Interactive	431
HUGHES.....	938
Incentient.....	1631
JANUS Displays.....	331
LG Electronics USA, Inc.	631
Life ware	551
Philips Hospitality / P&F USA	1231
Realview TV	164
RoomLinx.....	1351
Symon.....	1607
The Hotel Communication Network, Inc.	1447
Tribune Media Services	1815

Interactive TV

Activision TV Inc.....	1030
at-visions	1137
DirectStreams	739

DISH Network	951
DSS Installations	852
Enseo, Inc.....	1018
Ford Audio-Video Systems, Inc.	942
Guest-tek	548
iBAHN	221
InfoValue Computing, Inc.....	1131
Inteli.....	615
LG Electronics USA, Inc.	631
Life ware	551
LodgeNet Interactive Corporation.....	407
Nevotek	720
nSTREAMS Technologies, Inc.....	1051
Panasonic Solutions Company	1407
Panoptic Technology Inc.....	1549
Philips Hospitality / P&F USA	1231
RoomLinx.....	1351
Smart Hospitality	746
Sonu Satellite.....	1612
Square [i] International	1507
SuiteLinq Inc.	1151
Superclick Networks	537
Swisscom Hospitality Services.....	151
TELEVUE	1825
VDA USA	357
VideoPropulsion.....	815

Interface

Amadeus IT Group S.A.	819
Choice Hospitality Solutions	1725
Crowley Programming, Inc.....	1321
EZyield.....	1031
Galaxy Hotel Systems	301
Merchant Link.....	121
PAS	503
ProfitSword.....	709
Systems Design & Development, Inc. (SDD)	415
TigerTMS plc	110

Internet Products & Services

AFL.....	1620
Attendance on Demand, Inc.....	247
AVT Integrated Solutions	1147
Broadband Enterprise	1709
Business Only Broadband LLC.....	141
clubsystems group (CSG)	1321
Comcast Cable.....	1615
Cultuzz.....	940
Eleven	645
Elfiq Networks	106
Guest Direct.....	148
Guest-tek	548
GuestWifi, A Division of Spot On Networks	1809
HD Communications Corp.....	130
Hospitality Technical Services.....	345
Hotel Interactive Network.....	1830
Hotel Internet Services.....	1222
iBAHN	221
InnLink Central Reservation Services ..	1209
Intello Technologies Inc.....	1125

*By Product***EXHIBITORS**

ISPN	908
Jonas Software.....	501; 1321
MeetingMatrix International, Inc.	1025
Meraki, Inc.	1826
Milestone Internet Marketing, Inc.....	312
NewspaperDirect, Inc.....	621
Nomadix	1218
Realview TV	164
RoomLinx.....	1351
Sabre Hospitality Solutions	913
Sawyers Company.....	139
Single Digits Inc.	750
Stevens Digital Group	1808
Sunray.....	1213
Superclick Networks	537
Swisscom Hospitality Services.....	151
Systems Design & Development, Inc. (SDD)	415
TeleAdapt Inc.	521
Telkonet/EthoStream	1807
The Eric Ryan Corporation	1440
The Hotel Communication Network, Inc.	1447
Time Warner Cable Business Class	1543
Travelsurf (Pvt) Ltd.	651
ValuePoint Networks	807
WebRezPro Property Management System	1119
Wifi-soft Solutions	1811
Zephyr Guest Contact Solutions.....	546

Internet Service Provider

AFL.....	1620
Broadband Enterprise	1709
Business Only Broadband LLC.....	141
Comcast Cable.....	1615
Cultuzz.....	940
DISH Network	951
Guest-tek	548
GuestWifi, A Division of Spot On Networks	1809
iBAHN	221
ISPN	908
Sprint	351
Time Warner Cable Business Class	1543
ValuePoint Networks	807
Velocity, The Greatest Phone Company Ever, Inc.	1438

Inventory Control

Abacus 21	1321
Acom Computer Systems Ltd.	224
Adaco	515
Agilysys	607
BirchStreet Systems	1315
Cenium	1241
ChefTec/Culinary Software Services	440
Data Plus Hospitality Solutions	314
FOOD TRAK.....	421; 1321
Moreton Bay Technology Pty. Ltd.	602
Passkey	131
RateTiger-eRevMax	215
TrackIT LLC.....	906
Yellow Dog Software.....	1321

IP Equipment - Misc.

Broadband Enterprise	1709
HD Communications Corp.....	130
Intello Technologies Inc.....	1125
Nomadix	1218
Pico Digital	1548
Pinnacle Communications.....	447
Stevens Digital Group	1808
TTI Technologies.....	134
ValuePoint Networks	807
VCORE powered by DCI	1552
Winncom Technologies Corp.	144

IP Telephony

AEI Communications Corp.	251
Airband Communications	1828
AVAYA	937
Bittel Americas.....	441
CLC Networks	753
Cotell International Limited	453
Datanamics Non Stop Networks	707
Datatrend Technologies Inc.....	600
iBAHN	221
innAcloud Technologies	550
InnFlux HSIA	120
Mitel Corporation	531
Multicom, Inc.	837
NEC Corporation of America	1307
Nevotek	720
New Voice North America	152
PhoneSuite.....	1722
Phybridge Inc.	1310
Pinnacle Communications.....	447
Square [i] International.....	1507
Superclick Networks	537
Thing5.....	1621
VCORE powered by DCI	1552
Vocera Communications, Inc.	1121

IP TV

Activision TV Inc.....	1030
at-visions	1137
ATX Networks	1614
CallTek Center International, Inc.	1827
DirectStreams	739
DISH Network	951
DSS Installations	852
Elfiq Networks	106
Enseo, Inc.....	1018
Guest-tek	548
Hotel Internet Services	1222
iBAHN	221
InfoValue Computing, Inc.....	1131
Just In Time Communications.....	1253
LG Electronics USA, Inc.	631
LodgeNet Interactive Corporation.....	407
nSTREAMS Technologies, Inc.....	1051
Philips Hospitality / P&F USA	1231
Phybridge Inc.	1310
Pico Digital	1548
Smart Hospitality	746
Sonu Satellite.....	1612
Square [i] International.....	1507

SuiteLinq Inc.	1151
Superclick Networks	537
Swisscom Hospitality Services.....	151
TELEVUE	1825
Toner Cable Equipment Inc.	1618
VDA USA	357
VideoPropulsion.....	815

IT Consulting

Cenium	1241
Crowley Programming, Inc.....	1321
Cybage Software Private Limited	344
Datanamics Non Stop Networks	707
Dell/TACS	1517
Edgewater Technology Inc.....	1118
Electro-Media Design, Ltd.....	1419
hyphen Information Systems Management	518
Metasphere Technologies.....	1530
NIIT Technologies, Inc.....	1435
One Safe Place Media Corp.....	626
Single Digits Inc.	750
Square [i] International	1507
Teradata Corporation	419
Travelsurf (Pvt) Ltd.	651

IT Outsourcing

Alert Logic	1813
Amadeus IT Group S.A.	819
Cybage Software Private Limited	344
Datanamics Non Stop Networks	707
Dell/TACS	1517
Guest Direct.....	148
hyphen Information Systems Management	518
ISPN	908
Ness Technologies	444
NIIT Technologies, Inc.....	1435
One Safe Place Media Corp.....	626
Peace Systems Inc	1120
Travelsurf (Pvt) Ltd.	651

Kiosks

3M Security Systems	1346
Activision TV Inc.....	1030
Computime	1431
DirectStreams	739
Eleven	645
Flyte Systems	1230
Four Winds Interactive	431
HotelComputers.com	122
LG Electronics USA, Inc.	631
LogicLink, Inc.	1142
OpenWays.....	1834
Panasonic Solutions Company	1407
Precision Dynamics Corporation	125
PrinterOn Corporation.....	514
Realview TV	164
SIX Card Solutions	1733
Symon	1607
Uniquet	910
Vertical Systems, Inc.....	1037
Zephyr Guest Contact Solutions.....	546

EXHIBITORS | By Product

Software Development continued from page 99.

ProfitSword	709
SAS Institute Inc.	124
Spa, Fitness & Activity Software by GramercyOne	745
Teradata Corporation	419
Travelsurf (Pvt) Ltd.	651

Spa Management

Abacus 21	1321
IQWARE INC.	943
NORTHWIND - Maestro Property Mgmt. Solutions	323
PAR Springer-Miller Systems, Inc.	315
ResortSuite	1441
Spa, Fitness & Activity Software by GramercyOne	745
TAC - Reservation Assistant	339
Yellow Dog Software	1321

Sports/Leisure Activity

Active Network, Resorts	116
PAR Springer-Miller Systems, Inc.	315
Spa, Fitness & Activity Software by GramercyOne	745
TAC - Reservation Assistant	339

Stand-alone Telephone Call Billing

Homisco, Inc.	213
TigerTMS plc	110

Supply Chain Management

Adaco	515
Cenium	1241
BirchStreet Systems	1315
FOOD TRAK	421; 1321
Hotel Interactive Network	1830

Surveillance Systems

CLC Networks	753
Datatrend Technologies Inc.	600
Deep Blue Communications	1829
HUGHES	938
New Voice North America	152
PCM Technologies	1341
Pinnacle Communications	447
Sprint	351
WAV Wireless Outfitters	140
Winncom Technologies Corp.	144

Survey Systems

hyphen Information Systems Management	518
runtriz	1835
UniFocus	1308
ZDirect, Inc.	145

Systems Integration

Activision TV Inc.	1030
Amadeus IT Group S.A.	819
Aptech Computer Systems, Inc.	401
AVT Integrated Solutions	1147
CLC Networks	753

Crestron Electronics, Inc.	525
Crowley Programming, Inc.	1321
Datanamics Non Stop Networks	707
Dell/TACS	1517
EnOcean Alliance Inc.	1821
EZYield	1031
Flyte Systems	1230
hyphen Information Systems Management	518
Muzak LLC	451
Newmarket International, Inc.	307
NIIT Technologies, Inc.	1435
PAR Springer-Miller Systems, Inc.	315
PAS	503
PCM Technologies	1341
Stevens Digital Group	1808
Superclick Networks	537
Systems Design & Development, Inc. (SDD)	415
XETA Technologies	308

Table Management

MICROS Systems, Inc.	113
---------------------------	-----

Telecom Management & Consulting

AirWatch	1331
AT&T Wi-Fi Services	1531
Business Only Broadband LLC	141
Metropolis Technologies	813
Systems Design & Development, Inc. (SDD)	415
The Eric Ryan Corporation	1440
Thing5	1621
XETA Technologies	308

Teleconferencing

AT&T Wi-Fi Services	1531
Electro-Media Design, Ltd.	1419
Ford Audio-Video Systems, Inc.	942
Mitel Corporation	531
PAETEC	835

Telephone Systems (PBX)

Alcatel-Lucent	715
CLC Networks	753
Cotell International Limited	453
innAcloud Technologies	550
InnFlux HSIA	120
Multicom, Inc.	837
NEC Corporation of America	1307
Nevotek	720
PAETEC	835
PhoneSuite	1722
Pinnacle Communications	447
The Eric Ryan Corporation	1440
Thing5	1621
VCORE powered by DCI	1552
XETA Technologies	308

Telephones

AEI Communications Corp.	251
Alcatel-Lucent	715

Ascom (US) Inc.	527
Bittel Americas	441
Cetis, Inc.	1007
Cotell International Limited	453
Mitel Corporation	531
NEC Corporation of America	1307
PAETEC	835
Pinnacle Communications	447
The Eric Ryan Corporation	1440
TigerTMS plc	110
Time Warner Cable Business Class	1543
VTech Hotel Phones	1107
Zhuhai Huawang Communication Equipment Co., Ltd.	1451

Timekeeping/Time clocks

Attendance on Demand, Inc.	247
TMx Labor Solutions by TimeManagement	516
UniFocus	1308
Workforce-Velocity	653

Touch Screens

AVAYA	937
Cotell International Limited	453
Crestron Electronics, Inc.	525
Four Winds Interactive	431
HotelComputers.com	122
INNCOM International, Inc.	101
Intility	615
JANUS Displays	331
Life ware	551
Magnum Energy Solutions	1047
MConcierge Systems	848
Panasonic Solutions Company	1407
runtriz	1835
Squirrel Systems	346
SuiteLinq Inc.	1151
Symon	1607
ToteVision	1207
VeriFone, Inc.	934
Vertical Systems, Inc.	1037

Training

Choice Hospitality Solutions	1725
Cornell University Center for Hospitality Research	1616
Datanamics Non Stop Networks	707
Galaxy Hotel Systems	301
Hospitality Financial and Technology Professionals	165
Hospitality Sales & Marketing Association International	1339
HUGHES	938
hyphen Information Systems Management	518
International Hospitality Information Technology Association	165
Venza Group, Inc.	726

Travel Agency Processing

Dell/TACS	1517
Travel Tripper	1415

*By Product***EXHIBITORS****Travel Information Systems**

Flyte Systems	1230
Hotel Management Magazine	932
Lanyon, Inc.	1832

Travel Services

Hotel Management Magazine	932
MacroView Labs	1819
Travelsurf (Pvt) Ltd.	651

TV Programming

ATX Networks	1614
Bulk TV & Internet.....	809
DIRECTV.....	157
DISH Network	951
Display Systems International, Inc.....	104
DSS Installations	852
Enseo, Inc.....	1018
Flagstaff Corp	1806
Flyte Systems	1230
FRANCE 24	132
Just In Time Communications.....	1253
Multicom, Inc.	837
Smart Hospitality	746
Sonu Satellite.....	1612
Stevens Digital Group	1808
SuiteLinq Inc.	1151
TELEVUE	1825
Toner Cable Equipment Inc.	1618
Tribune Media Services	1815
VDA USA	357
Vecima Networks.....	1729
World Cinema, Inc.....	636

TVs/Theater Systems

Electric Mirror	243
Flagstaff Corp	1806
Hotel Internet Services	1222
Just In Time Communications.....	1253
LG Electronics USA, Inc.	631
Multicom, Inc.	837
Muzak LLC	451
Panasonic Solutions Company	1407
PCM Technologies.....	1341
Philips Hospitality / P&F USA	1231
Sawyers Company.....	139
Sonu Satellite.....	1612
Square [i] International	1507
ToteVision	1207
ZVOX Audio.....	931

Two-way Radios

HD Communications Corp.....	130
Motorola Solutions	1249
Winncom Technologies Corp.	144

Uniform/Linen Management

ClearWater Tech, LLC.....	1519
InvoTech Systems, Inc.....	236

Video Conferencing

Activision TV Inc.....	1030
AVAYA.....	937
Electro-Media Design, Ltd.	1419
Ford Audio-Video Systems, Inc.	942
Hotel Interactive Network.....	1830
LG Electronics USA, Inc.	631
Mitel Corporation	531
NEC Corporation of America	1307
Sprint	351

Video Games

guestLINK	625
TeleAdapt Inc.	521

Video Messaging

PCM Technologies.....	1341
Realview TV	164
Tribune Media Services	1815

Video On Demand

at-visions	1137
Deep Blue Communications.....	1829
DIRECTV.....	157
Guest-tek	548
Hotel Internet Services	1222
InfoValue Computing, Inc.....	1131
LodgeNet Interactive Corporation.....	407
Multicom, Inc.	837
Nevotek	720
Panoptic Technology Inc.	1549
PCM Technologies.....	1341
Smart Hospitality	746
Square [i] International.....	1507
SuiteLinq Inc.	1151
VDA USA	357
Vecima Networks.....	1729
VideoPropulsion.....	815
XETA Technologies	308

Voice Messaging

AVAYA.....	937
DuVoice Corporation.....	449
FCS Computer Systems	839
Homisco, Inc.....	213
Muzak LLC	451
NEC Corporation of America	1307
PAETEC	835
PCM Technologies.....	1341
PhoneSuite.....	1722
Thing5.....	1621
TigerTMS plc	110
Vocera Communications, Inc.....	1121

Voice Over IP

AEI Communications Corp.	251
Airband Communications	1828
Aruba Networks.....	1715
Ascom (US) Inc.....	527
AVAYA.....	937
Bittel Americas.....	441

CallTek Center International, Inc.	1827
Cetis, Inc.	1007
Cotell International Limited	453
Datatrend Technologies Inc.	600
HUGHES.....	938
innAcloud Technologies	550
ISPN	908
Mitel Corporation	531
Motorola Solutions	1249
Multicom, Inc.	837
NEC Corporation of America.....	1307
Nevotek	720
PAETEC	835
Panoptic Technology Inc.....	1549
PhoneSuite.....	1722
Phybridge Inc.	1310
Pinnacle Communications.....	447
Ruckus Wireless	1019
The Eric Ryan Corporation	1440
Thing5.....	1621
TigerTMS plc	110
Time Warner Cable Business Class.....	1543
Toner Cable Equipment Inc.	1618
VCORE powered by DCI	1552
Vocera Communications, Inc.	1121
VTech Hotel Phones	1107
XETA Technologies	308

WAN

Aruba Networks.....	1715
Broadband Enterprise	1709
Elfiq Networks	106
iBAHN	221
InnFlux HSIA	120
Intello Technologies Inc.....	1125
Meraki, Inc.	1826
Single Digits Inc.	750
Sprint	351
Time Warner Cable Business Class.....	1543
ValuePoint Networks	807
WAV Wireless Outfitters.....	140
Winncom Technologies Corp.	144

Web 2.0

Edgewater Technology Inc.....	1118
Milestone Internet Marketing, Inc.....	312

Web Conferencing

Hotel Interactive Network.....	1830
PAETEC	835

Web Content Development

Hospitality Sales & Marketing Association International.....	1339
Lodging Hospitality	1220
LogicLink, Inc.	1142
Milestone Internet Marketing, Inc.....	312
Realview TV	164

EXHIBITORS | By Product

Website Development/Design

Cendyn.....	639
clubsystems group (CSG)	1321
Cybage Software Private Limited	344
Edgewater Technology Inc.....	1118
Hotel Interactive Network.....	1830
ISPN	908
Jonas Software.....	501; 1321
Lodging Hospitality	1220
Milestone Internet Marketing, Inc.	312
Northstar Club Management Software.....	1321
Pegasus Solutions, Inc.....	1113
Realview TV	164
RSI-RoomKey PMS	933
Sabre Hospitality Solutions	913
Travel Tripper.....	1415
Wifi-soft Solutions	1811

WiFi

Activision TV Inc.....	1030
AirWatch.....	1331
Aruba Networks.....	1715
AT&T Wi-Fi Services	1531
at-visions	1137
AVT Integrated Solutions	1147
BelAir Networks.....	1627
Bittel Americas.....	441
Business Only Broadband LLC.....	141
CallTek Center International, Inc.	1827
CLC Networks	753
Comcast Cable.....	1615
Datanamics Non Stop Networks	707
Datatrend Technologies Inc.....	600
Deep Blue Communications.....	1829
DirectStreams	739
Enseo, Inc.....	1018
Guest Direct.....	148
Guest-tek	548
GuestWifi, A Division of Spot On Networks	1809
HD Communications Corp.....	130
Hotel Internet Services.....	1222
HUGHES.....	938
iBAHN	221
innAcloud Technologies	550
InnFlux HSIA	120
Intello Technologies Inc.....	1125
Just In Time Communications.....	1253
Meraki, Inc.....	1826
Meru Networks	1032
Motorola Solutions	1249
Nomadix	1218
Ovation Networks, Inc.....	1713
Ruckus Wireless	1019
Sawyers Company.....	139
Singapore Hospitality Technology Consortium	1532
Single Digits Inc.....	750
Sunray.....	1213
Superclick Networks	537
Swisscom Hospitality Services.....	151
TeleAdapt Inc.....	521
TigerTMS plc.....	110

ValuePoint Networks	807
WAV Wireless Outfitters.....	140
Wifi-soft Solutions	1811
Winncom Technologies Corp.	144
XETA Technologies	308
Zhone Technologies.....	520

Wireless Communications

Airband Communications	1828
Aruba Networks.....	1715
Ascom (US) Inc.....	527
AVAYA.....	937
Bartech Systems International	446
BelAir Networks.....	1627
Beverage Metrics, Inc.....	1306
Business Only Broadband LLC.....	141
Cables To Go	136
EnOcean Alliance Inc.....	1821
GuestWifi, A Division of Spot On Networks	1809
HD Communications Corp.....	130
Hospitality Technical Services.....	345
Hotel Internet Services	1222
Incentient.....	1631
innAcloud Technologies	550
Mitel Corporation	531
Motorola Solutions	1249
National Purchasing Partners.....	1312
NEC Corporation of America	1307
Nomadix	1218
Ruckus Wireless	1019
runtriz	1835
Singapore Hospitality Technology Consortium	1532
Sprint	351
Stevens Digital Group	1808
Sunray.....	1213
Superclick Networks	537
ValuePoint Networks	807
VCORE powered by DCI	1552
Vecima Networks.....	1729
Vocera Communications, Inc.....	1121
Winncom Technologies Corp.	144

Wireless Device Management

AirWatch.....	1331
Aruba Networks.....	1715
HD Communications Corp.....	130
Hospitality Technical Services.....	345
Hotel Internet Services	1222
InnFlux HSIA	120
LogicLink, Inc.....	1142
Magnum Energy Solutions	1047
Meraki, Inc.....	1826
Motorola Solutions	1249
Panoptic Technology Inc.....	1549
Ruckus Wireless	1019
Single Digits Inc.....	750
Superclick Networks	537
Systems Design & Development, Inc. (SDD)	415
ValuePoint Networks	807
Wifi-soft Solutions	1811
Winncom Technologies Corp.	144

Wireless LAN

AirWatch.....	1331
Alcatel-Lucent.....	715
Aruba Networks.....	1715
AT&T Wi-Fi Services	1531
AVAYA.....	937
BelAir Networks.....	1627
CallTek Center International, Inc.	1827
Datatrend Technologies Inc.....	600
Eleven	645
HD Communications Corp.....	130
Hotel Internet Services.....	1222
iBAHN	221
InnFlux HSIA	120
Intello Technologies Inc.....	1125
Meraki, Inc.....	1826
Meru Networks	1032
Motorola Solutions	1249
Nomadix	1218
Ruckus Wireless	1019
Single Digits Inc.....	750
Sprint	351
Sunray.....	1213
Superclick Networks	537
Swisscom Hospitality Services.....	151
TeleAdapt Inc.....	521
ValuePoint Networks	807
VCORE powered by DCI	1552
WAV Wireless Outfitters.....	140
Wifi-soft Solutions	1811
Winncom Technologies Corp.	144

Wireless Phones

AEI Communications Corp.	251
Aruba Networks.....	1715
Ascom (US) Inc.....	527
CallTek Center International, Inc.	1827
HD Communications Corp.....	130
National Purchasing Partners.....	1312
NEC Corporation of America.....	1307
New Voice North America	152
Sprint	351
Vocera Communications, Inc.....	1121
Zhuohai Huawang Communication Equipment Co., Ltd.....	1451

Workforce Management

Agilysys.....	607
Attendance on Demand, Inc.....	247
Axxess Industries Inc.....	831
Evention.....	245
FCS Computer Systems	839
Infor SoftBrands.....	201
Life ware.....	551
Motorola Solutions	1249
MTech	825
National Purchasing Partners.....	1312
OnTrack Performance Tools	1518
SAS Institute Inc.....	124
SkyWire Media Inc.....	343
TMx Labor Solutions by TimeManagement.....	516
UniFocus	1308
Workforce-Velocity.....	653
Zephyr Guest Contact Solutions.....	546

EXHIBIT 5



[Home](#) | [Contact Us](#)

-
-
-
-
-
-

[About Activation](#)
[Products & Services](#)
[Key Markets](#)
[Web-Box](#)
[Patent Information](#)
[Contact Us](#)

NEWS & EVENTS

"Anna Maria Island Resorts Announces Joint Venture with Activision TV, Inc."

Anna Maria Island Resorts properties have become the first flagship installation for Activision TV's Interactive In-Room Hotel System in Florida.

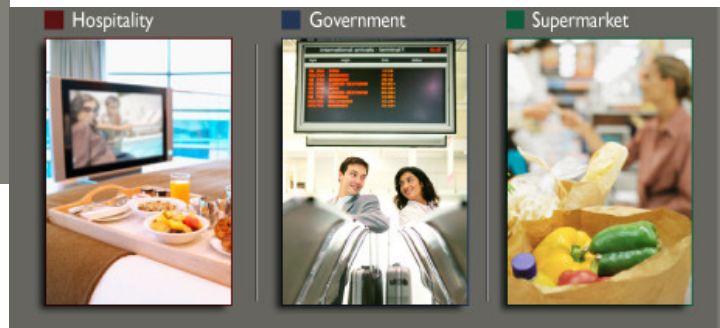
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PRODUCT PROFILE

Activision.TV is a high-definition digital flat Screen Totally Integrated Multi-Media Computer Television available in multiple sizes up to 100 inches.
This Patented Technology is Available Only on Activision.TV.

It's All-In-One: This remarkable advancement provides individual access, or as many as four screens simultaneously, for word processing, data transfer, internet access, email, video games and more while you are using wireless (WI-FI), HDTV, or a DVD on the same screen.



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- [Products & Services](#)
- [Key Markets](#)
- [Web-Box](#)
- [Patent Information](#)
- [Contact Us](#)

ABOUT ACTIVISION

» [Introduction](#) | » [The Digital Transformation](#) | » [Technology Leader](#) | » [Market Opportunities](#) | » [The Products](#)

Introduction

Never before has technology change come as quickly as the in the digital media industry. In less than half the time it took television to go from black and white to color, digital technology has converted the next generation of televisions and informational displays.

Activision.TV is a technology company that designs, manufactures, licenses and markets digital flat panel display systems for the hospitality, retail and government markets. Utilizing its patented technology, Activision.TV provides a competitively priced digital Computer Integrated Television (CIT). Activision.TV also offers Digital Media Delivery Systems (DMDS) for use in a wide variety of applications in both the narrowcasting point of purchase (POP) and broadcast (HDTV) markets. Dynamic video and advertising messages can be transmitted digitally to locations anywhere in the world, can be changed in minutes, and varied by location and time of day according to preferences set by the user.

[Back To Top](#)

The Digital Transformation

Broadcasting involves the transmission of signals over the air, by cable and satellite, with the intention of covering a large geographic area. The Federal Telecommunications Act of 1996 mandated that by February 17, 2009, all broadcast signals will be digital instead of the current analog signals sent today. Activision.TV has targeted the hotel/hospitality industry as a priority market for its products and services since most hotels and resorts will now need to begin replacing their old CRT type TV's with modern digital Plasma or LCD systems.

Studies show there are over 2 million hotel rooms in the United States today. Of that number, ten percent (10%) or over 200,000 rooms are being renovated each year in addition to over 100,000 new rooms being added to that inventory. Activision.TV feels that it has a strong marketing position in the Broadcast industry because of its patented Computer Integrated Television (CIT), its Works-in-a-Box (WIB) modular computer component and its Digital Media Delivery System (DMDS) systems which provide a turnkey solution for narrowcast networks.

By next year, 2007, the digital flat panel display market is projected to have combined sales in excess of \$88 Billion and reach an amazing 116 million units sold by 2015. There is a large demand for LCD and Plasma displays (PDP) for the Narrowcasting market; i.e. digital delivery of visual content through a centrally managed network of displays. Narrowcasting is vastly superior to static point-of-purchase (POP) displays because it delivers timely and locally targeted advertising / messages at a low cost. Multiple ads can play on a single display and content management can be digitally controlled from a central location, ensuring consistent messages and timely execution to an unlimited number of locations.

Hoteliers, retailers, and brand marketers all understand that customers respond to on-site marketing. A recent study by the Point of Purchase Advertising Institute (POPAI) noted that over 70% of all purchase decisions are made at the point of purchase, with over 60% of those being spontaneous. More effective POP advertising will directly result in higher sales and

profit margins. Narrowcasting is particularly valuable to the hotel, retail, trade show, public venue, casino, transportation, restaurant and sports bar, and consumer packaged goods industries.

[Back To Top](#)

Technology Leader

Any time a new industry is launched, like the digital flat panel display industry, it opens the door for new products and markets. An already explosive marketing opportunity and product demand has now been further enhanced with the addition of the government mandated change-over to digital signals in the next two and one half years.

Activision.TV offers a turn-key solution and one-stop-shop for both its products and services. The Company has a 24-hour help desk which is staffed seven days a week and a service representative available to fix unexpected problems within hours and without hassle to its customers. This total solution is possible in part because of the Company's trained professional staff and its patented Works-in-a-Box (WIB) technology which enables easy field replacement of the modular computer inside the Computer Integrated Television.

[Back To Top](#)

Market Opportunities

Although the digital flat panel display system is a viable solution in a multitude of applications, Activision.TV has initially targeted the hospitality industry in both the narrowcast and broadcast markets.

With the capability to exercise immediate data delivery and recovery, content and promotional changes can be readily adapted to meet the demands of each System manager – both locally and/or at a central corporate location. Activision.TV allow both local properties and advertisers to exploit consumer purchasing habits faster and in more flexible ways complementing efforts to promote local restaurants and services and corporate promotions at the same time. The results are greater guest satisfaction, reduced vacancies through cross-promotion, increased revenues through local and national promotion, and targeted selective promotions to consumers to promote higher-margin products with the flexibility to make changes across an entire property or an entire national network in minutes.

[Back To Top](#)

The Products

Activision.TV is currently in its third generation of design for its three primary products and services: 1) its digital ready Computer Integrated Television (CIT), 2) its patented Works-In-A-Box (WIB) computer, and 3) its Digital Media Delivery Systems. The Company has made significant advances in features, size and weight of each – while at the same time cutting costs and enhancing performance of the hardware and software significantly. The patented WIB concept enables the user to upgrade his display at any time by adding additional components or software at a reasonable cost and virtually eliminating obsolescence. Maintenance problems can be solved quickly with the removable box replaced easily from an on-site spare, or with a new unit express shipped for repairs and returned next day. And connectivity is easy via cable, satellite or internet – with easy local installation via Ethernet or Wi-Fi.

Because the digital flat panel display industry is relatively young, the demand for Activision products and services is varied and immense. And the Company is positioned to capture a significant share of this rapidly growing market because of its patented and state-of-the-art hardware and software systems. The required conversion to digital television is now established. Activision is here to provide simple, proven solutions to this otherwise puzzling transformation. Please call us. We're your solution and we'd like to help.

[Back To Top](#)

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[Products & Services](#)
[Key Markets](#)
[Web-Box](#)
[Patent Information](#)
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Features:

- High Definition (HDTV) Plasma / LCD Display, w/screen sizes ranging from 35" to 80" (16.9 aspect ratio)

Input/Output Include:

- S-video for camcorder and video game hook up
- Cable/Satellite/Free Air Ready
- RCA Jacks for external audio hookup

Combinations

- Intel Mini ITX Motherboard with MPEG-2/4 decoder
- Minimum 160 Gig Hard drive with space for over 100 hours of NTSC/ATSC recording
- Minimum of 2.8 GHz P4 Processor and 512 Megs of DDR RAM
- ATSC (HDTV) Tuner Card for Digital Signals
- DVD Player-CD/CDRW Recorder/Player
- Digital 5.1 Dolby Surround Sound
- Bluetooth® and WIFI Compatible
- Wireless Keyboard and Mouse
- Linux, Windows XP Professional, or Windows Media Center Edition Operating Systems available
- FCC 2005 Compliant Digital Receiver
- Patented HDTV Computer Integrated Television Technology
- ATSC (digital) and NTSC (analog) Signals
- Ethernet RJ-45 Connector
- USB 2.0 Connectors for add on peripherals
- Firewire (1394) Connector for add on peripherals
- VGA Connector for Computer Input

Related Products:

Computer Integrated Television (CIT)



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[Products & Services](#)
[Key Markets](#)
[Web-Box](#)
[Patent Information](#)
[Contact Us](#)

Give Your Guests:

- **Standard TV Programming**
- **Internet Access**
- **Video-On-Demand**
- **E-mail Access**
- **DVD Plug-In**
- **Personal Computing Functions**
- **Personal Laptop Plug-In**
- **Digital Camera Plug-In**
- **Gaming & lots More**
- **Narrowcast Advertising**

35" to 80" High Definition (HDTV) Plasma or LCD Screens with a complete range of computer capabilities!

Related Products:

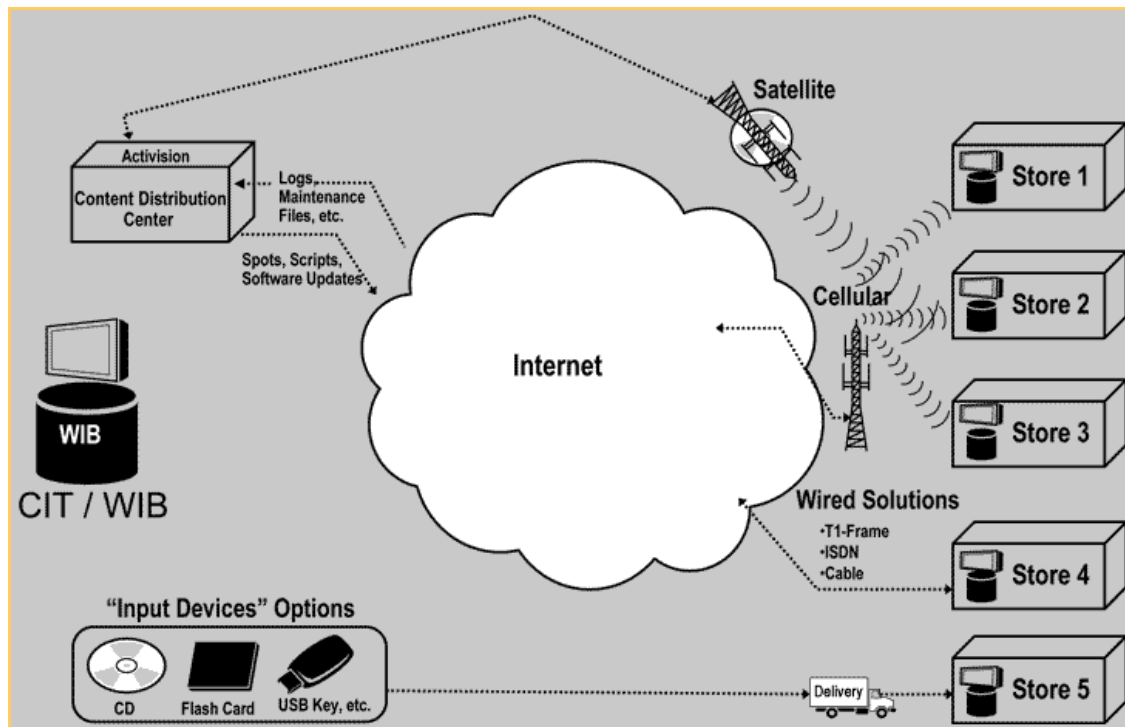
Works-In-A-Box (WIB)

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- [Contact Us](#)



Beyond the physical CIT's or WIB's alone, the Activision DMDS includes a complete turn-key solution combining hardware, software, content, content management and connectivity for narrowcast applications. When combined with CIT's and connectivity Activision's Digital Media Delivery Systems offer a one-stop package for creating, managing and delivering narrowcast advertising content and information.

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- Demo
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- Products
- Patents
- Key Industries
- Contact
- Home



Activision.TV Is the Real
Interactive In-Room Solution
that Provides The Connectivity
The Internet & The TV

Intro Video

In Room Services

Patent Information

Activision.tv has established a portfolio of patents that provide industry dominance for intellectual property.
[read more...](#)

Works-In-A-Box

Include our all in one computer to your hospitality services.
[read more...](#)

With Activation you get:

- Content Creation & Control
- Less Expensive to Operate
- This System is Easily Maintained & Upgradable
- New Revenue Streams
- Remote Diagnostic Repair & Monitoring
- State-of-the-Art Wi-Fi

Only Activision.TV offers the hospitality industry the all-in-one real interactive solution that delivers top-line revenue for the hotel and to the hotel's guests...

Activision's new technology goes beyond the ordinary in-room broadcasting system. Activision, coupled with strategic partners, provides an all-in-one real interactive solution for all your hotel services, including in-room, front desk, restaurants, bars, spa, swimming pool, meeting rooms and gift shop locations.

The Activision System is a high definition flat screen, all-in-one multi-media computer television....

This remarkable advancement provides individual access to a single screen, or as many as four functions simultaneously, for word processing, data transfer, internet access, e-mail, video games, DVD and more while using wireless (Wi-Fi) and comes HDTV/3D ready.

Activision TV delivers patented, scalable software-centric solutions built around the computer, not the TV. This allows unlimited flexibility in customizing the two-way, interactive digital experience from both the hotel's and the guest's perspective.

- Standard TV Programming
- Internet Access
- Video-On-Demand
- DVD Plug-In
- E-Mail Access
- Narrowcasting Advertising
- Personal Computing Functions
- Personal Laptop Plug-in
- Digital Camera Plug-in
- Gaming and more...

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Newsletter

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Digital Media Delivery Systems for Government Applications.

At Activision.TV, we appreciate the complexity of the government sector. And we know considering a new concept for messaging may not have been what you woke up thinking about. But if Paul Revere had a narrowcast network like this one, the Yankees might have kept the Brits from even leaving the boats! In the U.S., Government is by the people and for the people – and these days, this means getting accurate information to the people really fast. The need is for a digital sign network that is secure, easy to manage and update, and is practical to both install and maintain. Despite their incredible foresight – even the Founding Fathers couldn't have seen this one coming! Yet while the technology is finally here and affordable, there are a number of pieces to this puzzle, from hardware to software to connectivity, installation and maintenance.

In this Age of Information, superb communication is not only helpful, it could be life-saving. And the public relies on government management and systems to keep us up to date. As travelers, visitors and students pour through our airports or mass transit stations, city halls, government buildings or university campuses, it's a real challenge to provide the information they need day in and day out, let alone to update critical messages can change from minute to minute. As if your job isn't tough enough with being there to deal with the schedules you know and plan on – now you've got surprises and new announcements all the time – not to mention the need to present information in a variety of languages. English alone isn't enough anymore. What's needed is an active digital sign network that is versatile, always there, and yet easy to refresh. Oh, yes, and cost-effective. You need a state-of-the-art system that's easy to install and will bring a smile to all who use it – from travelers to managers, visitors to students, officers to staff - right from day one. You need a system with central control to display messages that can be consistent nationally – or can vary state by state, region by region, agency to agency, or even screen by screen. A system that allows you to plan content and schedules weeks, even months in advance, but then lets you change on a dime when you need to.

The Activision Digital Media Delivery System (DMDS) is the solution. Creating an on-site Activision DMDS (Narrowcast Network) means you have a whole new way to bring exactly the right message to the public on a need-to-know basis – fast and accurately. Several state-of-the-art features include:

- **High Definition (HD) Screen Size Options from 15” to 100”**
- **Wi-Fi local area networking (optional)**
- **Alternate use as Computer Based Training system**
- **Multi-lingual presentations**
- **Internet Wide Area connectivity via Satellite, Cable or DSL**
- **Ceiling, Fixture or Wall Mount options**
- **Still or video presentations**
- **Sound dome options available**
- **System Leasing available**

You could do this on your own - but there are a lot of pieces to this puzzle. Finding the right computers and monitors and then connecting them with a software solution that lets you control your own network. Plus, there's installation and maintenance, replacements and keeping the system current with technology advances that seem to appear monthly if not daily.

The good news is you don't have to worry about the puzzle. Activision.TV' advanced technology solutions have brought a suite of patents together in a single simple product – the Computer Integrated Television (CIT). And by adding our compact patented Works-in-a-Box computer (WIB), CIT's are all-in-one packages that can go virtually anywhere you'd like to put them. This is The Master Piece to the puzzle that ties everything together. And because High Definition LCD or Plasma screens are available in virtually any size, they usually take up less space than a painted sign – or even a light box or older analog monitor. Now, you no longer have to patch and paint the walls where scotch tape wouldn't hold the outdated notice. And, because your systems are turnkey and WiFi ready, you don't even have to break through walls to install new cable! Just plug and play in most locations where venues already have internet available and add a router.

Truth is, Mr. Washington, Activision.TV didn't invent flat panel high definition monitors or the PC – not even the internet. But we've been bringing new ideas to technology for about 14 years, and we've patented several ways to bring these pieces together. You could wait and search for all of them on your own, but we both know the public demand is here now. Besides, why worry about the puzzle when we're your solution! We are an American entrepreneurial firm who's been working on this puzzle for a long time, and now we're ready with a solid, patented solution that can really help where it's needed most. And what could be more patriotic than that?

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Marketing in the Market - or Connecting the Spots.

At Activision.TV, we appreciate the complexity of the supermarket business. We know bringing together the myriad of pieces that make up a profitable store is a constant puzzle. As customers alternately saunter and speed through visits – it's a real challenge to present your goods while making purchases 'their idea.' As if your job isn't tough enough – adding effective visual merchandising is the ultimate challenge to getting and keeping control of your bottom line. But we can help, with a state-of-the-art in-store marketing solution that's easy to install and that will bring a smile to customer faces and can add more dollars to the register than it costs, right from day one.

Today's savvy shoppers at all economic levels rely on their supermarket or pharmacy to provide both in-store freshness and competitive pricing. The worldwide web has brought buying and product research to a new, irreversibly intimate place in our lives. But some things still need to be seen and purchased in the store. The challenge is to keep in-store promotion as fresh as the produce and as easy to update as it is to add a roll of register tape. The need is for a system that allows central corporate control with local input. A system that you manage, and one that can generate new revenue from both sponsors and customers at the same time. A system that reports what happens on the screens and allows you to monitor results and change on a dime when you need to.

What's needed is an Activision Digital Media Delivery System (DMDS).

Creating your own in-house Activision Narrowcast Network means you have an entirely new way to bring exactly the right message to your customers day by day, hour by hour, even minute by minute. Indeed, according to an article in September, 2006 in "Broadcast Engineering," a recent Nielsen Media Research Report concluded that such a supermarket in-store media network resulted in 68% of viewers stating that the digital signs would influence their decision to buy an advertised product!

You could do this on your own - but there are a lot of pieces to this puzzle. Finding the right computers and monitors and connecting them with a software solution that lets you control your own network. Plus, there's installation and maintenance, replacements and keeping the system current. But the good news is that the rewards are worth it and we can make it easy - so you don't have to worry. We're your solution.

Activision.TV's advanced technology is the Master Piece to the puzzle. We've brought a suite of patents together in a single simple product - the Computer Integrated Television (CIT). And by adding our compact patented Works-in-a-Box computer (WIB), CIT's are all-in-one packages that can go virtually anywhere you'd like to put them. And because they're available in virtually any size High Definition LCD or Plasma screen, they usually take up less space than a hand-painted sign - so you don't have to worry that the scotch tape won't hold - or that the customers won't see them. The software is great and not only let's you schedule your Play List weeks and months in advance, it gives you a "proof-of-play" report to verify your sponsors ads were really up there! And because your systems are turnkey and WiFi ready, you don't even have to break through walls to install new cable! Just plug and play in most locations where stores already have internet available and connect a router.

State-of-the-Art features include:

- **High Definition (HD) Screen Options from 15" - 80"**
- **Internet Wide Area connectivity via**
- **Wireless (WiFi) local area networking (optional)**
- **Satellite, Cable or DSL**
- **Alternate use as Computer Based Training system**
- **Still or video presentations**
- **Multi-lingual presentations**
- **Sound dome options available**
- **Ceiling, Fixture or Wall Mounting**
- **System Leasing available**

Okay, to put this all in grocery talk - we want you to lettuce help make you more bread. This system is a hot tamale - a real peach! It can help you bring home the bacon if you beef up. The Activision System gives you the whole enchilada and is an antidote for the well-aged corporate wine: "we want more profit." It really takes the cake! Just give those vendor/sponsors a chance to pay to play on your own in-house Point of Purchase System digital sign system. It's sweeter than honey. It's a hot tomato that will help you sell more than the 100 bottles of beer on the wall and could become your new bread and butter. So don't be chicken. You might just make a bushel and a peck!

Listen, Activision.TV didn't invent flat panel high definition monitors or the PC - not even the internet. But we've been bringing new ideas to technology for about 14 years, and we've patented several ways to bring these pieces together. You could wait and search for all of them on your own, but we both know the market demand is here now. Besides, why worry about the puzzle. We have the Master Piece - and we're your solution! (Now orange ya glad you know us!)

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- Products
- Patents
- Key Industries
- Contact
- Home

Key Industries

Hospitality Government Supermarket



Hospitality

Broadcasting. It's A New World.

At Activision.TV, we appreciate your hospitality, and we'd like to do something nice for you in return. Something that can bring an extra smile to your guests faces and an extra dollar to your coffers at the same time.

Contact Support

Contact us with your questions and comments.

Today's savvy travelers at all economic levels rely on their hotel or resort to provide both in-room entertainment and internet access. The worldwide web has brought staying in touch with family, office, and world events to a new, irreversibly intimate place in our lives. Now, the inevitable marriage of TV and PC has finally happened. And we at Activision.TV would like to help you celebrate.

It's an exciting moment when you can bring a variety of in-room offers to guests right from a single television. Features including:

- Standard TV Programming
- Internet Access
- Video-On-Demand
- E-mail Access
- DVD Plug-In
- Personal Computing Functions
- Personal Laptop Plug-In
- Digital Camera Plug-In
- Gaming And Lots More
- Narrowcast Advertising

But there are a lot of pieces to this puzzle. Finding the right computers and TVs and connecting them with a software solution that lets you control your own network. Plus, there's installation and maintenance.

And we did say digital TV's - right? Since Federal legislation has mandated that all current analog broadcasting will change to digital by February 17, 2009, older sets just won't work anymore - and this means you've got to start replacing existing models anyway.

The good news is you don't have to worry about the puzzle. We're your solution.

Activision.TV's advanced technology solutions have brought a suite of patents together in a single simple product - The Master Piece - the Computer Integrated Television (CIT). By adding its compact, patented, Works-in-a-Box computer (WIB), CIT's are all-in-one packages that can go virtually anywhere you'd like to put them. And because they're available in virtually any size High Definition LCD or Plasma screen, they usually take up less space than the old TV did - even though they bring a plethora of options to your guests, and meet 2009 digital standards today. This means you can offer private in-room choices at the same time you generate new revenue from a modest daily connection fee. Oh, yes, and did we mention our Systems are WiFi ready so you don't even have to break through walls to install new cable! Just plug and play in most locations which already have internet available and add a router.

Sounds like a good frame up! Just replace a picture on the wall with an Activision Computer Integrated Television and that old country landscape becomes a sleek, high definition screen that simultaneously improves guest satisfaction, your image, and your bottom line.

Activision.TV didn't invent the television or the PC - not even the internet. But we've been bringing new ideas to technology for about 14 years, and we've patented several ways to bring these pieces together. You could wait and search for all of them on your own, but we both know the market demand is here now. Besides, why worry about the puzzle when we're your solution!

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- Products
- Patents
- Key Industries
- Contact
- Home

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Government

Digital Media Delivery Systems For Government Applications At Activision.TV, we appreciate the complexity of the government sector. And we know considering a new concept for messaging may not have been what you woke up thinking about. But if Paul Revere had a narrowcast network like this one, the Yankees might have kept the Brits from even leaving the boats! In the U.S., Government is by the people and for the people – and these days, this means getting accurate information to the people really fast. The need is for a digital sign network that is secure, easy to manage and update, and is practical to both install and maintain. Despite their incredible foresight – even the Founding Fathers couldn't have seen this one coming!

Yet while the technology is finally here and affordable, there are a number of pieces to this puzzle, from hardware to software to connectivity, installation and maintenance.

In this Age of Information, superb communication is not only helpful, it could be life-saving. And the public relies on government management and systems to keep us up to date. As travelers, visitors and students pour through our airports or mass transit stations, city halls, government buildings or university campuses, it's a real challenge to provide the information they need day in and day out, let alone to update critical messages can change from minute to minute. As if your job isn't tough enough with being there to deal with the schedules you know and plan on – now you've got surprises and new announcements all the time – not to mention the need to present information in a variety of languages. English alone isn't enough anymore. What's needed is an active digital sign network that is versatile, always there, and yet easy to refresh. Oh, yes, and cost-effective. You need a state-of-the-art system that's easy to install and will bring a smile to all who use it – from travelers to managers, visitors to students, officers to staff - right from day one. You need a system with central control to display messages that can be consistent nationally – or can vary state by state, region by region, agency to agency, or even screen by screen. A system that allows you to plan content and schedules weeks, even months in advance, but then lets you change on a dime when you need to.

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- High Definition (HD) Screen Size Options from 15" to 100"
- Wi-Fi local area networking (optional)
- Alternate use as Computer Based Training system
- Multi-lingual presentations
- Internet Wide Area connectivity via Satellite, Cable or DSL
- Ceiling, Fixture or Wall Mount options
- Still or video presentations
- Sound dome options available
- System Leasing available

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monitor. Now, you no longer have to patch and paint the walls where scotch tape wouldn't hold the outdated notice. And, because your systems are turnkey and WiFi ready, you don't even have to break through walls to install new cable! Just plug and play in most locations where venues already have internet available and add a router.

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- Demo
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- Products
- Patents
- Key Industries
- Contact
- Home

Key Industries

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Supermarket

Government

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Supermarket

Marketing in the Market - or Connecting the Spots. At Activision.TV, we appreciate the complexity of the supermarket business. We know bringing together the myriad of pieces that make up a profitable store is a constant puzzle. As customers alternately saunter and speed through visits – it's a real challenge to present your goods while making purchases 'their idea.' As if your job isn't tough enough – adding effective visual merchandising is the ultimate challenge to getting and keeping control of your bottom line. But we can help, with a state-of-the-art in-store marketing solution that's easy to install and that will bring a smile to customer faces and can add more dollars to the register than it costs, right from day one.

Contact Support

Contact us with your questions and comments.

Today's savvy shoppers at all economic levels rely on their supermarket or pharmacy to provide both in-store freshness and competitive pricing. The worldwide web has brought buying and product research to a new, irreversibly intimate place in our lives. But some things still need to be seen and purchased in the store. The challenge is to keep in-store promotion as fresh as the produce and as easy to update as it is to add a roll of register tape. The need is for a system that allows central corporate control with local input. A system that you manage, and one that can generate new revenue from both sponsors and customers at the same time. A system that reports what happens on the screens and allows you to monitor results and change on a dime when you need to.

What's needed is an Activision Digital Media Delivery System (DMDS).

Creating your own in-house Activision Narrowcast Network means you have an entirely new way to bring exactly the right message to your customers day by day, hour by hour, even minute by minute. Indeed, according to an article in September, 2006 in "Broadcast Engineering," a recent Nielsen Media Research Report concluded that such a supermarket in-store media network resulted in 68% of viewers stating that the digital signs would influence their decision to buy an advertised product!

You could do this on your own - but there are a lot of pieces to this puzzle. Finding the right computers and monitors and connecting them with a software solution that lets you control your own network. Plus, there's installation and maintenance, replacements and keeping the system current. But the good news is that the rewards are worth it and we can make it easy -- so you don't have to worry. We're your solution.

Activision.TV's advanced technology is the Master Piece to the puzzle. We've brought a suite of patents together in a single simple product -- the Computer Integrated Television (CIT). And by adding our compact patented Works-in-a-Box computer (WIB), CIT's are all-in-one packages that can go virtually anywhere you'd like to put them. And because they're available in virtually any size High Definition LCD or Plasma screen, they usually take up less space than a hand-painted sign -- so you don't have to worry that the scotch tape won't hold -- or that the customers won't see them. The software is great and not only let's you schedule your Play List weeks and months in advance, it gives you a "proof-of-play" report to verify your sponsors ads were really up there! And because your systems are turnkey and WiFi ready, you don't even have to break through walls to install new cable! Just plug and play in most locations where stores already have internet available and connect a router.

State-of-the-Art features include:

- High Definition (HD) Screen Options from 15" - 80" • Wireless (WiFi) local area networking (optional) • Alternate use as Computer Based Training system • Multi-lingual presentations • Ceiling, Fixture or Wall Mounting • Internet Wide Area connectivity via Satellite, Cable or DSL • Still or video presentations • Sound dome options available • System Leasing available

Okay, to put this all in grocery talk – we want you to lettuce help make you more bread. This system is a hot tamale – a real peach! It can help you bring home the bacon if you beef up. The Activision System gives you the whole enchilada and is an antidote for the well-aged corporate wine: “we want more profit.” It really takes the cake! Just give those vendor/sponsors a chance to pay to play in your own in-house Point of Purchase System digital sign system. It’s sweeter than honey. It’s a hot tomato that will help you sell more than the 100 bottles of beer on the wall and could become your new bread and butter. So don’t be chicken. You might just make a bushel and a peck!

Listen, Activision.TV didn’t invent flat panel high definition monitors or the PC – not even the internet. But we’ve been bringing new ideas to technology for about 14 years, and we’ve patented several ways to bring these pieces together. You could wait and search for all of them on your own, but we both know the market demand is here now. Besides, why worry about the puzzle. We have the Master Piece – and we’re your solution! (Now orange ya glad you know us!)

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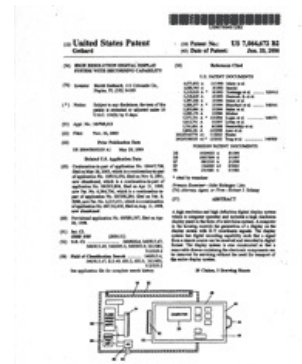


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The company has established a portfolio of patents that provide industry dominance for intellectual property. The list of issued patents includes:

Description	Patent No.	Status
Remote Control Electronic Display System	US 6,215,411 B1	Issued April 10, 2001
Remote Control Electronic Display System	US 6,384,736 B1	Issued May 7, 2002
High Resolution Digital Display System with Recording Capability	US 7,064,672 B2	Issued June, 20 2006
Remote Control Electronic Display System	US 7,369,058	Issued May 6, 2008



Additionally, The Company has seven (7) patents pending with over two hundred (200) combined claims which will expand and reinforce the portfolio.

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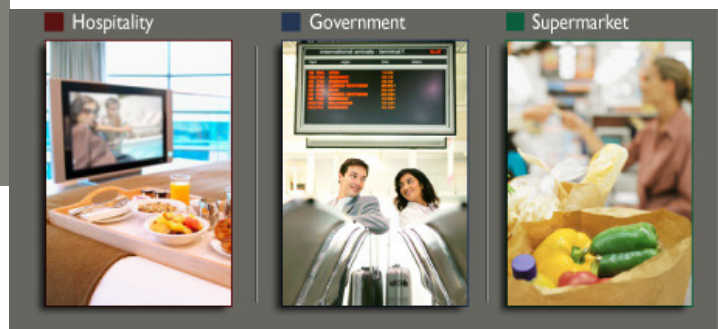
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Activision.TV is a high-definition digital flat Screen Totally Integrated Multi-Media Computer Television available in multiple sizes up to 100 inches. **This Patented Technology is Available Only on Activision.TV.**

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When I saw this article on portfolio news (Activision Blizzard is in my portfolio) I was curious how it was that this company could use the same name as our Activision. Maybe the .TV makes the difference but it mixed me up.

Just thought I would mention this in case anyone else is puzzled by this.

Long on Activision Blizzard.

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TIE Technologies' Whirlwind Media Signs Agreement With Activision.TV, Inc.

GlobeNewswire

02/15/11 - 08:36 AM EST

NEW YORK, Feb. 15, 2011 (GLOBE NEWSWIRE) -- TIE Technologies, Inc. (Pink Sheets:TTCS), a diverse technology holding company focused on proprietary smart logistics for Homeland Security, environmental and disaster remediation, telematics, and advanced IT solutions, today announced that its Whirlwind Media Services, Inc. subsidiary has signed a new two year Agreement with Activision.TV Inc.

Whirlwind Media Services has been engaged to generate the next generation of content for [Activision.TV](#) and was named Advertising Agency of Record for Activision.TV. Activision.TV's technology provides a single source solution for the rapid and flexible deployment of narrowcast and broadcast content and promotional information that is used in hotels, retail and government sectors.

The narrowcast market is a growing multi-billion dollar industry. In the last three years, it has experienced a growth rate of 12-18% according to InfoTrends. The expansion of these services into public spaces and service areas, such as transportation hubs continues to expand and provide clear examples of the potential in this market. The content quality and the ability to provide flexible and rapid changes to the content from local and central locations is a critical factor for the advertisers utilizing this medium.

David Gothard, Activision.TV CEO, commented, " At Activision.TV we're bringing the latest technology to the consumers and we are now teaming up with Microsoft, AMD and Flex Tronics to build a set top box of the future. Coupled with the award winning services of Whirlwind to deliver the content, we are poised to dominate this market."

For more information, please visit [www.activision.tv](#)

Graham Mew, President of Whirlwind Media Services, added, "We've been working with the Activision.TV team since 2006 and we are very excited to extend our services to design and deliver the content for Activision.TV and their clients. This relationship also enables us to showcase our talents to industry leaders – both the customers and partners of Activision.TV."

ABOUT ACTIVISION.TV

Activision.TV is a technology company that designs, manufactures, licenses and markets digital flat panel display systems for the hospitality, retail and government markets. Utilizing its patented technology, Activision.TV provides a competitively priced digital Computer Integrated Television (CIT). Activision.TV also offers Digital Media Delivery Systems (DMDS) for use in a wide variety of applications in both the narrowcasting point of purchase (POP) and broadcast (HDTV) markets. Dynamic video and advertising messages can be transmitted digitally to locations anywhere in the world, can be changed in minutes, and varied by location and time of day according to preferences set by the user.

ABOUT WHIRLWIND MEDIA SERVICES

Whirlwind Media Services provides application and website hosting and is a single source multimedia marketing and web design company, offering its clients innovative and dynamic sales & marketing campaigns, interactive video & graphic design, and Internet-based marketing solutions. Whirlwind boasts a who's who list of Fortune 500, mid-and-small-cap, and small business clients. Whirlwind's motto – regardless of size and industry is "customer first." For additional information, please visit www.whirlwindms.com

ABOUT TIE TECHNOLOGIES, INC.

TIE Technologies is a diverse holding company specializing in science and technology driven companies. Their portfolio of companies are focused on proprietary smart logistics for Homeland Security, environmental and disaster remediation, telemetrics, and advanced IT solutions. TIE Technologies is traded on Pink Sheets under the symbol "TTCS." For additional information, please visit www.tietechnologies.com

FORWARD-LOOKING STATEMENTS

The information contained herein includes forward-looking statements. These statements relate to future events or to our future financial performance, and involve known and unknown risks, uncertainties and other factors that may cause our actual results, levels of activity, performance, or achievements to be materially different from any future results, levels of activity, performance or achievements expressed or implied by these forward-looking statements. You should not place undue reliance on forward-looking statements since they involve known and unknown risks, uncertainties and other factors which are, in some cases, beyond our control and which could, and likely will, materially affect actual results, levels of activity, performance or achievements. Any forward-looking statement reflects our current views with respect to future events and is subject to these and other risks, uncertainties and assumptions relating to our operations, results of operations, growth strategy and liquidity. We assume no obligation to publicly update or revise these forward-looking statements for any reason, or to update the reasons actual results could differ materially from those anticipated in these forward-looking statements, even if new information becomes available in the future. The safe harbor for forward-looking statements contained in the Private Securities Litigation Reform Act of 1995 protects companies from liability for their forward-looking statements if they comply with the requirements of the Act.

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CRITIC'S NOTEBOOK
Consoles Moving Into Next Generation

By **STEPHEN TOTILO**
Published: May 26, 2013

REDMOND, Wash. — On a gray day here last week, Microsoft officials welcomed a few hundred people into a tent pitched on a soccer field at the company's headquarters. Microsoft was [unveiling an appliance](#), the Xbox One, which takes up about as much room as a lazy house cat and is designed to be plugged into a television.

It is the latest in a generational line of Xboxes, PlayStations and Nintendos to arrive in the past quarter-century. To dedicated gamers, each generation is as relevant and real a part of the calendar as an Olympiad or a presidential election cycle. Gamers argue about which one is the best.

But the previous generation has stretched on longer than those before it and segues into the next at a time when there might be a meteor in the sky. Serious people discuss whether these new consoles, facing competition from cellphones and tablets,

Lloyd Miller

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EX 9 PG 64

might be endangered. Untethered from a television, mobile devices — which draw hundreds of millions of people to distraction with Angry Birds, Clash of Clans and Temple Run — make gaming more convenient. The home console's appeal is dependent on the notion that gaming on a television still matters.

The industry is at the start of its eighth console generation: the Xbox One, [Sony's PlayStation 4](#) and [Nintendo's Wii U](#). The Microsoft and Sony machines are planned for release this year; Nintendo's device shipped in November, for the 2012 holiday season. Generations typically last a half-decade and are preceded by the promise that the new, ever more powerful devices will improve the world's youngest major creative medium, make their manufacturers a lot of money and in some way reconfigure living rooms across the world.

The point of an Xbox is to "bring the things you love to life," Don Mattrick, Microsoft's chief of interactive entertainment, said in an interview outside the Xbox One tent. "You love entertainment. You love TV. You love games. This is going to be the premium experience for enjoying those things."

Mr. Mattrick's challenge, like that of his counterparts at Sony and Nintendo, is to convince people that the game console and its ubiquitous controllers aren't going the way of the landline telephone or, in a threat that hits closer to home, the arcade machine. Just a few decades ago the home console was an upstart. By the late 1990s it was unseating arcade machines, gobbling the public's attention the way Pac-Man used to gobble all those dots (and quarters). Consoles like the Nintendo 64 and the Sony PlayStation brought the graphics and sounds of arcade-caliber gaming home and improved on them by offering richer, deeper worlds to play in.

The outgoing console generation started in 2005 with Microsoft's Xbox 360. Sony's PlayStation 3 followed a year later, as did Nintendo's Wii, with a motion-sensitive controller that turned it into a cultural phenomenon. In an age when iPhones are displaced every year, 2005-era console technology is nearly Paleolithic. It's a testament to the ability of programmers to squeeze performance out of an established hardware standard that new games on the Xbox 360 can still look and sound impressive in 2013.

Proponents of consoles argue that most mobile games, while increasing in appeal, lack key qualities of console gaming. "They're very bite-sized, very light on the story, very light on the emotions and the different things that a proper sit-down-on-your-couch-with-a-50-inch-screen-and-surround-sound experience can provide," said Scott Rohde, who leads the highly regarded in-house American game development studios for Sony PlayStation.

Microsoft's vision for the Xbox One extends beyond gaming. It is designed to switch from playing games to showing cable television with a snap of the fingers. Older consoles simply played games, but newer ones are designed to play television shows and movies.

That shift in focus has been gradual but definite at Microsoft, which added one of its most popular features to the Xbox 360, the ability to stream movies through Netflix, in 2008. At the tent event Mr. Mattrick, a former video game designer, announced a deal with the N.F.L. that would empower the Xbox One



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to display an interactive fantasy league application on the right side of a TV while the left side displayed a live football game.

Mr. Rohde and Mr. Mattrick may be rivals in the current console generation, but they are joined by colleagues on both sides who argue that the increased horsepower and technical flash of new consoles can make video game characters appear to be more realistic and increase a player's emotional engagement. They suggest that better technology enables greater aesthetic achievement in their medium. This is by no means a settled point, nor even a universally shared belief of what it takes to advance the artistry of games. That view was in fact recently mocked at a recent conference for game creators by the independent developer [Chris Hecker](#), who played a reel of proclamations by top console game developers who claimed that more powerful technology would beget more emotionally sophisticated gaming.

Mr. Rohde acknowledged that one of the more emotionally affecting games of last year, a graphically simple, narrative-heavy spinoff of the zombie comic and TV show "The Walking Dead," could run on numerous platforms, from consoles to cellphones. He considers that game an exception and cited the PlayStation 3's forthcoming The Last of Us, a more graphically complex survival adventure set in a nearly photorealistic ruined United States, as an example that requires a powerful console.

Mr. Rohde also pointed to economics, saying that the low prices of many mobile games (around \$1) restrict development budgets to a fraction of those for lavish \$60 console games.

Microsoft, Sony and Nintendo have all begun courting independent game creators for their consoles. A common selection for [2012 game of the year](#) was a smaller PlayStation 3 exclusive called Journey, a quiet, surreal nature-walk of a game made by a small team of developers whom Sony signed out of graduate school. One of the most popular games on the Xbox 360 last year was the console's version of the PC hit Minecraft, a building-block game designed nearly single-handedly by a developer in Sweden known as Notch.

For the Xbox One, Mr. Mattrick speaks of a smarter device that recognizes its users and adapts to them. His team has integrated the console with a new generation of Microsoft's successful visual and aural sensor Kinect. A result is something that might seem more futuristic and also a bit strange. The new Kinect can track gestures, read a player's heart rate by looking at his or her face, and respond to verbal commands. It must be plugged in for the Xbox One to operate, though the entire system can be turned off to alleviate concerns that it might spy on people.

The PlayStation 4 and the Xbox One are both expected to be released this fall, probably up against new devices from Apple and other mobile competitors. Games are likely to be popular on all of those machines.

"What's so exciting about this particular time in the history of gaming is that it's more wild than it's ever been," Mr. Rohde said. "No one on the planet knows quite where it's going to go."

Stephen Totilo is the editor in chief of the gaming site [Kotaku.com](#).

A version of this article appeared in print on May 27, 2013, on page C1 of the New York edition with the headline: Consoles Moving Into Next Generation.

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EXHIBIT 10



May 21, 2013 1:59 p.m. EDT

Microsoft Xbox One Launch: True Convergence of Video Games, TV, Media, Web, Communications

By 24/7 Wall St.

Microsoft Corporation (NASDAQ: MSFT) has revealed its new Xbox as a new generation device, calling it the Xbox One as a new generation revealed. The actual Xbox will be a black box and the company chose to launch this game in a Spike TV opening and media webcast, the move seems to be to focus on core gamers as well as on media.

New features include a voice control guide, enabling Skype video calls while watching television, snap mode to move in between multiple programs at once with Explorer running side by side. This will allow you to switch to games and music instantly, or to movies.

As far as how the video game functionality is changing, that comes with a new video game hand controller that was said to be designed by gamers for gamers and a new Kinect feature with advanced camera and reading functions. The company's SmartGlass aims to tie in other hardware devices, enabling your tablet to be a remote control.

What is obvious is that this new Xbox One from Microsoft is aimed at being the first true convergence device from the company at the launch. The Xbox 360 was added to and grown on multiple times. Even if that ends up being the case here for Xbox One, this at least looks like Microsoft's convergence device has arrived.

More details will be available after the 11:00 AM Pacific Time.



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EX 10 PG 68